

AN ACT relating to natural gas as transportation fuel and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

- (1) The Natural Gas Fuel Fleet fund is hereby created as a separate trust fund in the State Treasury. The fund shall consist of amounts received from appropriations and any other proceeds from gifts, grants, federal funds, or any other funds, both public and private, made available for the purposes of Sections 1 to 4 of this Act.
- (2) The Natural Gas Fuel Fleet fund shall be administered by the Energy and Environment Cabinet.
- (3) Amounts deposited in the Natural Gas Fuel Fleet fund shall be used only for the purpose of encouraging public and private fleets to acquire vehicles powered by natural gas and propane as provided in Sections 1 to 4 of this Act.
- (4) Notwithstanding KRS 45.229, Natural Gas Fuel Fleet fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.
- (5) Any interest earnings of the Natural Gas Fuel Fleet fund shall become a part of that fund and shall not lapse.
- (6) Moneys deposited in the fund are hereby appropriated for the purposes set forth in this section and shall not be appropriated or transferred by the General Assembly for any other purposes.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act:

- (1) "Cabinet" means the Energy and Environment Cabinet;
- (2) "Conversion costs" means the excess costs associated with retrofitting a diesel-or

gasoline-powered motor vehicle to one powered by natural gas fuel;

(3) "Eligible costs" means the costs of conversion or the incremental cost incurred by an applicant in connection with an investment in the conversion, purchase, or lease lasting at least five (5) years of a natural gas fleet vehicle placed into service on or after July 15, 2016. The term does not include costs for project development, fueling stations, or other fueling infrastructure;

(4) "Fleet vehicle" means one (1) of a group of three (3) or more motor vehicles registered to the same owner in the Commonwealth and used for commercial or governmental purposes;

(5) "Incremental costs" means the excess costs associated with the purchase or lease of a natural gas fuel motor vehicle as compared to an equivalent vehicle powered by diesel or gasoline; and

(6) "Natural gas fuel" means any liquefied petroleum gas product, compressed natural gas product, or combination thereof used to power a motor vehicle as defined in KRS 186.010. "Natural gas fuel" includes but is not limited to all forms of fuel known or sold as natural gasoline, butane gas, propane gas, or any other form of liquefied petroleum gas, compressed natural gas, or liquefied natural gas.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

The cabinet shall award rebates for eligible costs that shall not exceed seventy-five percent (75%) of the eligible costs of a natural gas fuel fleet vehicle powered by a dedicated or bi-fuel natural gas system placed into service on or after July 15, 2016. An applicant is eligible to receive a maximum single-vehicle rebate of:

(1) Five thousand dollars (\$5,000) per vehicle of less than eight thousand five hundred one (8,501) pounds gross vehicle weight rating (GVWR);

(2) Ten thousand dollars (\$10,000) per vehicle between eight thousand five hundred

one (8,501) pounds and ten thousand (10,000) pounds GVWR; or

(3) Twenty thousand dollars (\$20,000) per vehicle exceeding ten thousand (10,000) pounds GVWR.

An applicant is eligible to receive rebates of a maximum of two hundred fifty thousand dollars (\$250,000) per fiscal year. All natural gas fuel fleet vehicles shall comply with applicable United States Environmental Protection Agency emission standards.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A setting out the rebate application process, the contents of the application, the documentation and verification requirements, priority of applications, and when applications will be accepted. An affidavit signed by the applicant certifying that the contents of the application are factual shall accompany the application.

(2) The cabinet shall determine the rebate eligibility of each applicant. The total amount of rebates approved in each fiscal year shall not exceed the amount appropriated for the program in the fiscal year. Applicants shall provide economic impact data as requested by the cabinet for evaluation and assessment of the rebate program.

(3) The cabinet shall publish on an ongoing basis on its Web site the amount of available funding remaining for rebates.

(4) On October 1, 2016, and on each October 1 thereafter, the cabinet shall provide a report on the activity under the rebate program to the Legislative Research Commission. A representative of the cabinet shall make an oral report to the Interim Special Subcommittee on Energy. These reports shall include at a minimum:

(a) The number of approved applicants;

- (b) The number of applicants who were not approved and the reasons that their applications were rejected;
- (c) The amount of the average rebate in each category and the total amount awarded under the program during the year;
- (d) The number of vehicles acquired by applicants under the program and data on the size of vehicle acquired, the type of vehicle, and the fuel used by each vehicle; and
- (e) An analysis of the economic benefits to the Commonwealth from the program, if any.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

- (a) "Natural gas fueling infrastructure" means the pump and tank necessary for dispensing natural gas into a vehicle;
 - (b) "Qualified expenses" means costs, including labor, associated with the construction and installation of any natural gas fueling infrastructure;
 - (c) "Tax credit" means the fueling infrastructure tax credit permitted by subsection (2) of this section; and
 - (d) "Taxpayer" has the same meaning as in KRS 131.010(4).
- (2) (a) For taxable years beginning on or after January 1, 2016, but before January 1, 2020, the fueling infrastructure tax credit shall be allowed against the taxes imposed by KRS 141.020 or 141.040 and 141.0401, with the ordering of the credit as provided by Section 6 of this Act.
- (b) The tax credit shall be an amount equal to the lesser of:
 - 1. Thirty five percent (35%) of the qualified expenses incurred in the installation of any natural gas fueling infrastructure; or
 - 2. Two hundred thousand dollars (\$200,000);

unless the amount provided in paragraph (c) of this subsection has been reached.

(c) 1. Beginning in fiscal year 2016–2017 and ending in fiscal year 2019–2020, the maximum amount of all tax credits awarded during a fiscal year shall be no more than five million dollars (\$5,000,000).

2. If the maximum amount of all tax credits awarded is not utilized in any fiscal year, the excess shall not be carried over to the next fiscal year.

(3) (a) Prior to incurring any costs associated with installing any natural gas fueling infrastructure, a taxpayer seeking the credit permitted by subsection (2) of this section shall file an application with the department, including:

1. The name, address, and tax identification number of the taxpayer;

2. The proposed location of the fueling infrastructure;

3. A description of the proposed installation to be completed, including estimated costs for the installation and any blueprints necessary to explain the installation; and

4. Any other information the department may require.

(b) 1. Upon receipt of the application, the department shall determine if the estimated costs are qualified expenses.

2. The department shall respond to the taxpayer within thirty (30) days regarding the approval or denial of the application or to request additional information to make the determination.

3. Upon approval, the department shall deduct from the remaining balance for the fiscal year the estimated tax credit to be awarded to the taxpayer for qualified expenses to ensure that no more than five million dollars (\$5,000,000) are awarded during any fiscal year.

(c) 1. Upon receipt of the approved application, the taxpayer may proceed

- with the installation of the natural gas fueling infrastructure.
2. The taxpayer shall maintain a record of the qualified expenses incurred in and pictorial evidence regarding the installation of the natural gas fueling infrastructure.
3. Upon completion of the installation, the taxpayer shall submit to the department a request for tax credit verification, including the information required in subparagraph 2. of this paragraph and verification that the installation is complete and the natural gas fueling infrastructure is operational.
- (d) 1. Upon receipt of the request for tax credit verification, the department shall review the records provided by the taxpayer and shall adjust, approve, or deny the request.
2. Following the review, the department shall notify the taxpayer regarding any amount of tax credit that is awarded to the taxpayer.
- (e) The taxpayer may claim the awarded tax credit in the taxable year within which the notification from the department is received.
- (4) (a) If the taxpayer does not operate the natural gas fueling infrastructure for at least five (5) years after completing the installation, the tax credit shall be recaptured.
- (b) If the natural gas fueling infrastructure is not operated by the taxpayer as required by paragraph (a) of this subsection, the department shall assess a penalty on the taxpayer in an amount equal to one hundred percent (100%) of the tax credit awarded and claimed on any tax return.
- (5) The department shall:
- (a) Create the application and request for tax credit verification required to be filed by the taxpayer;
- (b) Accept applications for the tax credit on a first-come, first-served basis;

- (c) Promulgate administrative regulations to administer the tax credit;
- (d) Establish a monitoring process to identify the recapture of the tax credit under subsection (4) of this section; and
- (e) Create a Web site containing:
1. The amount of the total credit allocated to date;
 2. The remaining credit available to taxpayers for the fiscal year; and
 3. The date the last processed application for the fiscal year was received.
- (6) If the taxpayer awarded the tax credit is a pass-through entity, the taxpayer shall apply the credit at the entity level against the limited liability entity tax imposed by KRS 141.0401 and shall also pass the credit through to the partners, members, or shareholders of the pass-through entity in the same proportion as the distributive share of income or loss is passed through.
- (7) (a) The purposes of the tax credit are to:
1. Encourage the development of natural gas fueling stations across the Commonwealth; and
 2. Lessen the burden on individuals and businesses attempting to locate a natural gas fueling station, thereby assisting in the conversion of motor vehicle fleets to natural gas.
- (b) Notwithstanding KRS 131.190, beginning on or before November 1, 2017, and annually thereafter as long as the tax credit is available, the department shall report in an electronic format to the Legislative Research Commission the following information for each fiscal year:
1. A listing for each taxpayer seeking the tax credit;
 2. The county within which the natural gas fueling infrastructure is located;
 3. The amount of estimated tax credit approved from applications submitted to the department under subsection (3)(a) of this section;

4. The date that the amount in subsection (3)(b) was approved;
5. The amount of tax credit awarded to the taxpayer by the department under subsection (3)(d) of this section;
6. The date that the amount in subsection (3)(d) was awarded; and
7. The amount of tax credit claimed on tax returns submitted to the department; and
8. The taxable year in which the tax credit was claimed.

→Section 6. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

- (1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:
 - (a) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);
 2. For taxable years beginning after December 31, 2006, the limited liability entity tax credit permitted by KRS 141.0401;
 - (b) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;
 - (c) The qualified farming operation credit permitted by KRS 141.412;
 - (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - (e) The health insurance credit permitted by KRS 141.062;
 - (f) The tax paid to other states credit permitted by KRS 141.070;
 - (g) The credit for hiring the unemployed permitted by KRS 141.065;
 - (h) The recycling or composting equipment credit permitted by KRS 141.390;

- (i) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - (j) The coal incentive credit permitted ~~by~~under KRS 141.0405;
 - (k) The research facilities credit permitted ~~by~~under KRS 141.395;
 - (l) The employer GED incentive credit permitted ~~by~~under KRS 164.0062;
 - (m) The voluntary environmental remediation credit permitted by KRS 141.418;
 - (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - (o) The environmental stewardship credit permitted by KRS 154.48-025;
 - (p) The clean coal incentive credit permitted by KRS 141.428;
 - (q) The ethanol credit permitted by KRS 141.4242;
 - (r) The cellulosic ethanol credit permitted by KRS 141.4244;
 - (s) The energy efficiency credits permitted by KRS 141.436;
 - (t) The railroad maintenance and improvement credit permitted by KRS 141.385;
 - (u) The Endow Kentucky credit permitted by KRS 141.438;
 - (v) The New Markets Development Program credit permitted by KRS 141.434;
 - (w) The food donation credit permitted by KRS 141.392;
 - (x) The distilled spirits credit permitted by KRS 141.389~~;~~and
 - (y) The angel investor credit permitted by KRS 141.396; and
 - (z) ***The fueling infrastructure credit permitted by Section 5 of this Act.***
- (2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual credits permitted by KRS 141.020(3);
 - (b) The credit permitted by KRS 141.066;
 - (c) The tuition credit permitted by KRS 141.069;
 - (d) The household and dependent care credit permitted by KRS 141.067; and

- (e) The new home credit permitted by KRS 141.388.
- (3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual withholding tax credit permitted by KRS 141.350;
 - (b) The individual estimated tax payment credit permitted by KRS 141.305;
 - (c) For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c);
 - (d) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); and
 - (e) The film industry tax credit ~~permitted~~permitted by KRS 141.383.
- (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.
- (5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:
- (a) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;
 - (b) The qualified farming operation credit permitted by KRS 141.412;
 - (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - (d) The health insurance credit permitted by KRS 141.062;
 - (e) The unemployment credit permitted by KRS 141.065;
 - (f) The recycling or composting equipment credit permitted by KRS 141.390;
 - (g) The coal conversion credit permitted by KRS 141.041;
 - (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;

- (i) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - (j) The coal incentive credit permitted ~~by~~under KRS 141.0405;
 - (k) The research facilities credit permitted ~~by~~under KRS 141.395;
 - (l) The employer GED incentive credit permitted ~~by~~under KRS 164.0062;
 - (m) The voluntary environmental remediation credit permitted by KRS 141.418;
 - (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - (o) The environmental stewardship credit permitted by KRS 154.48-025;
 - (p) The clean coal incentive credit permitted by KRS 141.428;
 - (q) The ethanol credit permitted by KRS 141.4242;
 - (r) The cellulosic ethanol credit permitted by KRS 141.4244;
 - (s) The energy efficiency credits permitted by KRS 141.436;
 - (t) The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;
 - (u) The railroad maintenance and improvement credit permitted by KRS 141.385;
 - (v) The railroad expansion credit permitted by KRS 141.386;
 - (w) The Endow Kentucky credit permitted by KRS 141.438;
 - (x) The New Markets Development Program credit permitted by KRS 141.434;
 - (y) The food donation credit permitted by KRS 141.392;~~and~~
 - (z) The distilled spirits credit permitted by KRS 141.389; and
 - (aa) The fueling infrastructure credit permitted by Section 5 of this Act.**
- (6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable credits shall be taken in the following order:
- (a) The corporation estimated tax payment credit permitted by KRS 141.044;
 - (b) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); and

(c) The film industry tax credit permitted by~~allowed in~~ KRS 141.383.

→Section 7. There is appropriated to the Natural Gas Fuel Fleet fund from the General Fund \$2,000,000 in fiscal year 2016-2017 and \$2,000,000 in fiscal year 2017-2018. Notwithstanding KRS 45.229, any General Fund appropriation unexpended at the end of fiscal years 2016-2017 and 2017-2018 shall not lapse but shall be carried forward into the next fiscal year.