

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 2095

By: O'Donnell

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5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68
8 O.S. 2011, Section 2357.22, as last amended by
9 Section 12, Chapter 328, O.S.L. 2014 (68 O.S. Supp.
10 2018, Section 2357.22), which relates to tax credits
11 for investment in certain qualified clean-burning
12 motor vehicles and related assets; modifying taxable
13 years for which credit may be claimed; modifying
14 references to hydrogen fuel cells; modifying
15 provisions related to certain property related to
16 vehicles powered by electricity; providing for
17 computation of tax credits based on vehicle weight;
18 prohibiting use of tax credit to reduce tax liability
19 below certain amount; providing an effective date;
20 and declaring an emergency.

21 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

22 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.22, as
23 last amended by Section 12, Chapter 328, O.S.L. 2014 (68 O.S. Supp.
24 2018, Section 2357.22), is amended to read as follows:

Section 2357.22 A. For tax years beginning before ~~January 1,~~
~~2020~~ December 31, 2026, there shall be allowed a one-time credit
against the income tax imposed by Section 2355 of this title for
investments in qualified clean-burning motor vehicle fuel property
placed in service after December 31, 1990.

1 B. As used in this section, "qualified clean-burning motor
2 vehicle fuel property" means:

3 1. Equipment installed to modify a motor vehicle which is
4 propelled by gasoline or diesel fuel so that the vehicle may be
5 propelled by ~~a hydrogen fuel cell~~, compressed natural gas, liquefied
6 natural gas or liquefied petroleum gas; provided, equipment
7 installed on a vehicle propelled by a hydrogen fuel cell shall only
8 be eligible for tax year 2010. The equipment covered by this
9 paragraph must:

- 10 a. be new, not previously used to modify or retrofit any
11 vehicle propelled by gasoline or diesel fuel and be
12 installed by an alternative fuels equipment technician
13 who is certified in accordance with the Alternative
14 Fuels Technician Certification Act,
- 15 b. meet all Federal Motor Vehicle Safety Standards set
16 forth in 49 CFR 571, or
- 17 c. for any commercial motor vehicle (CMV), follow the
18 Federal Motor Carrier Safety Regulations or Oklahoma
19 Intrastate Motor Carrier Regulations;

20 2. A motor vehicle originally equipped so that the vehicle may
21 be propelled by ~~a hydrogen fuel cell~~, compressed natural gas, or
22 liquefied natural gas or liquefied petroleum gas but only to the
23 extent of the portion of the basis of such motor vehicle which is
24 attributable to the storage of such fuel, the delivery to the engine

1 of such motor vehicle of such fuel, and the exhaust of gases from
2 combustion of such fuel. A motor vehicle originally equipped so
3 that the vehicle may be propelled by a hydrogen fuel cell shall only
4 be eligible for tax year 2010;

5 3. Property, not including a building and its structural
6 components, which is:

7 a. directly related to the delivery of compressed natural
8 gas, liquefied natural gas or liquefied petroleum gas,
9 ~~or hydrogen,~~ for commercial purposes or for a fee or
10 charge, into the fuel tank of a motor vehicle
11 propelled by such fuel including compression equipment
12 and storage tanks for such fuel at the point where
13 such fuel is so delivered but only if such property is
14 not used to deliver such fuel into any other type of
15 storage tank or receptacle and such fuel is not used
16 for any purpose other than to propel a motor vehicle,
17 ~~or~~

18 b. ~~a metered-for-fee, public access recharging system for~~
19 ~~motor vehicles propelled in whole or in part by~~
20 ~~electricity. The property covered by this paragraph~~
21 ~~must be new, and must not have been previously~~
22 ~~installed or used to refuel vehicles powered by~~
23 ~~compressed natural gas, liquefied natural gas or~~
24 ~~liquefied petroleum gas, hydrogen or electricity.~~

1 Any property covered by this paragraph which is related to the
2 delivery of hydrogen into the fuel tank of a motor vehicle shall
3 only be eligible for tax year 2010; or

4 4. Property which is directly related to the compression and
5 delivery of natural gas from a private home or residence, for
6 noncommercial purposes, into the fuel tank of a motor vehicle
7 propelled by compressed natural gas. The property covered by this
8 paragraph must be new and must not have been previously installed or
9 used to refuel vehicles powered by natural gas.

10 C. As used in this section, "motor vehicle" means a motor
11 vehicle originally designed by the manufacturer to operate lawfully
12 and principally on streets and highways.

13 D. The credit provided for in subsection A of this section
14 shall be as follows:

15 1. ~~After the effective date of this act, for~~ For the qualified
16 clean-burning motor vehicle fuel property defined in paragraph 1 or
17 2 of subsection B of this section, ~~forty five percent (45%) of the~~
18 ~~cost of the qualified clean-burning motor vehicle fuel property~~ the
19 amount of the credit shall be as follows based upon gross vehicle
20 weight of the qualified vehicle:

21 a. for vehicles up to or below six thousand (6,000)
22 pounds, the credit shall be a maximum of Five Thousand
23 Five Hundred Dollars (\$5,500.00),

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- 1 b. for vehicles between six thousand one (6,001) pounds
2 to ten thousand (10,000) pounds, the credit shall be a
3 maximum amount of Nine Thousand Dollars (\$9,000.00),
4 c. for vehicles of ten thousand one (10,001) pounds, but
5 not in excess of twenty-six thousand five hundred
6 (26,500) pounds, the credit shall be a maximum amount
7 of Twenty-six Thousand Dollars (\$26,000.00), and
8 d. for vehicles in excess of twenty-six thousand five
9 hundred one (26,501) pounds, the credit shall be a
10 maximum amount of Fifty Thousand Dollars (\$50,000.00);

11 2. For qualified clean-burning motor vehicle fuel property
12 defined in paragraph 3 of subsection B of this section, a per-
13 location credit of ~~seventy-five percent (75%)~~ forty-five percent
14 (45%) of the cost of the qualified clean-burning motor vehicle fuel
15 property; and

16 3. For qualified clean-burning motor vehicle fuel property
17 defined in paragraph 4 of subsection B of this section, a per-
18 location credit of the lesser of fifty percent (50%) of the cost of
19 the qualified clean-burning motor vehicle fuel property or Two
20 Thousand Five Hundred Dollars (\$2,500.00).

21 E. In cases where no credit has been claimed pursuant to
22 paragraph 1 of subsection D of this section by any prior owner and
23 in which a motor vehicle is purchased by a taxpayer with qualified
24 clean-burning motor vehicle fuel property installed by the

1 manufacturer of such motor vehicle and the taxpayer is unable or
2 elects not to determine the exact basis which is attributable to
3 such property, the taxpayer may claim a credit in an amount not
4 exceeding the lesser of ten percent (10%) of the cost of the motor
5 vehicle or One Thousand Five Hundred Dollars (\$1,500.00).

6 F. If the tax credit allowed pursuant to subsection A of this
7 section exceeds the amount of income taxes due or if there are no
8 state income taxes due on the income of the taxpayer, the amount of
9 the credit not used as an offset against the income taxes of a
10 taxable year may be carried forward, in order, as a credit against
11 subsequent income tax liability for a period not to exceed five (5)
12 years. The tax credit authorized pursuant to the provisions of this
13 section shall not be used to reduce the tax liability of the
14 taxpayer to less than zero (0).

15 G. A husband and wife who file separate returns for a taxable
16 year in which they could have filed a joint return may each claim
17 only one-half (1/2) of the tax credit that would have been allowed
18 for a joint return.

19 H. The Oklahoma Tax Commission is herein empowered to
20 promulgate rules by which the purpose of this section shall be
21 administered, including the power to establish and enforce penalties
22 for violations thereof.

23 I. Notwithstanding the provisions of Section 2352 of this
24 title, for the fiscal year beginning on July 1, 2014, and each

1 fiscal year thereafter, the Tax Commission shall calculate an amount
2 that equals five percent (5%) of the cost of qualified clean-burning
3 motor vehicle fuel property as provided for in paragraph 1 of
4 subsection D of this section for tax year 2012. For each subsequent
5 fiscal year thereafter, the Tax Commission shall perform the same
6 computation with respect to the second tax year preceding the
7 beginning of each subsequent fiscal year. The Tax Commission shall
8 then transfer an amount equal to the amount calculated in this
9 subsection from the revenue derived pursuant to the provisions of
10 subsections A, B and E of Section 2355 of this title to the
11 Compressed Natural Gas Conversion Safety and Regulation Fund created
12 in Section ~~13~~ 130.25 of ~~this act~~ Title 74 of the Oklahoma Statutes.

13 J. For the fiscal year beginning July 1, 2019, and each fiscal
14 year thereafter, the total amount of credits authorized by this
15 section used to offset tax shall be adjusted annually to limit the
16 annual amount of credits to Twenty Million Dollars (\$20,000,000.00).
17 The Tax Commission shall annually calculate and publish by the first
18 day of the affected fiscal year a percentage by which the credits
19 authorized by this section shall be reduced so the total amount of
20 credits used to offset tax does not exceed Twenty Million Dollars
21 (\$20,000,000.00) per year. The formula to be used for the
22 percentage adjustment shall be Twenty Million Dollars
23 (\$20,000,000.00) divided by the credits used to offset tax in the
24

1 second preceding year, with respect to any changes to the future of
2 the credit.

3 K. Pursuant to subsection J of this section, in the event the
4 total tax credits authorized by this section exceed Twenty Million
5 Dollars (\$20,000,000.00) in any calendar year, the Tax Commission
6 shall permit any excess over Twenty Million Dollars (\$20,000,000.00)
7 but shall factor such excess into the percentage adjustment formula
8 for subsequent years with respect to any changes to the future of
9 the credit.

10 L. The Tax Commission shall notify the Office of the State
11 Secretary of Energy and Environment at any time when the amount of
12 claims for credits allowed pursuant to this subsection reaches
13 eighty percent (80%) of the total annual limit provided in
14 subsection J of this subsection. Upon such notification, the
15 Secretary shall provide notice to the Governor, President Pro
16 Tempore of the Senate and Speaker of the House of Representatives.

17 SECTION 2. This act shall become effective July 1, 2019.

18 SECTION 3. It being immediately necessary for the preservation
19 of the public peace, health or safety, an emergency is hereby
20 declared to exist, by reason whereof this act shall take effect and
21 be in full force from and after its passage and approval.

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