

[First Reprint]  
ASSEMBLY, No. 483

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman VANDERVALK and Assemblyman BAGGER

1 AN ACT concerning promotion of the use of alternative fuels by motor  
2 vehicles in the State, <sup>1</sup>[amending P.L.1940, c.5.] and  
3 supplementing <sup>1</sup>[chapter 2C of]<sup>1</sup> Title 26 and <sup>1</sup>[chapter 27D of]<sup>1</sup>  
4 Title 52 of the Revised Statutes.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8

9 1. (New section) This act shall be known and may be cited as the  
10 "Comprehensive Alternative Motor Fuels Promotion Act."

11

12 2. (New section) a. The Legislature finds and declares:

13 (1) The vast majority of motor vehicles in use in the United States  
14 are totally dependent on petroleum-based fuels such as gasoline and  
15 diesel fuels; the use of such fuels contributes to air pollution problems  
16 across the nation; and the reliable supply of these fuels from primarily  
17 foreign sources constitutes a national security concern;

18 (2) The use of nonpetroleum alternative fuels could contribute to  
19 a Statewide air pollution control strategy to achieve the air quality  
20 standards and goals of the recently enacted amendments to the federal  
21 "Clean Air Act," 42 U.S.C. §7401 et seq., curb imported oil demand,  
22 restrain oil price rises, and help assure a reliable supply of motor fuel;  
23 and

24 (3) It is in the public interest and would further the public health,  
25 safety, and welfare for the Legislature to facilitate improvement of the  
26 State's air quality through promotion of the use of alternative fuels in  
27 general, but especially in those types of vehicles that are engaged in  
28 fleet or central motor fuel operations, and thus by their nature lend  
29 themselves to such technology.

30 b. The Legislature recognizes that:

31 (1) The Department of Environmental Protection, <sup>1</sup>the Department

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Assembly AES committee amendments adopted March 20, 1997.

1 of Transportation, the Department of the Treasury, and the Board of  
2 Public Utilities,<sup>1</sup> in cooperation with private industry, <sup>1</sup>[has] have<sup>1</sup>  
3 undertaken an alternative fuels demonstration project to evaluate the  
4 environmental, economic, and social impacts of the use of alternative  
5 fuel vehicles; and

6 (2) The <sup>1</sup>[Department of Environmental Protection] Board of  
7 Public Utilities<sup>1</sup> maintains a Business Energy Improvement Program  
8 designed to assist eligible applicants by providing grants and loans to  
9 further energy conservation practices and promote the development  
10 and use of alternative energy sources.

11

12 3. (New section) As used in this act:

13 "Alternative fuel" means methanol, <sup>1</sup>denatured<sup>1</sup> ethanol, <sup>1</sup>[or] and<sup>1</sup>  
14 other alcohols <sup>1</sup>[,] fuels other than alcohol derived from animal,  
15 biological or vegetable materials;<sup>1</sup> natural gas, <sup>1</sup>[compressed natural  
16 gas,]<sup>1</sup> propane, liquefied petroleum gas, hydrogen, coal-derived liquid  
17 fuels, <sup>1</sup>and<sup>1</sup> electricity <sup>1</sup>[, or any other fuel substantially composed of  
18 nonpetroleum substances that is used in a clean-fuel vehicle that  
19 complies with the standards and requirements applicable to such  
20 vehicles under the federal "Clean Air Act," 42 U.S.C. §7401 et seq.];  
21 and mixtures used as fuel containing 85% or more by volume of  
22 methanol, denatured ethanol, or other alcohols, or fuels other than  
23 alcohol derived from animal, biological or vegetable materials, mixed  
24 with gasoline or other fuels, including, but not limited to, certain  
25 blends of biodiesel. The term "alternative fuel" shall not include  
26 reformulated gasoline or any fuel that is more than 15% petroleum-  
27 based by volume.<sup>1</sup>

28 "Alternative fuel vehicle" means a motor vehicle that is a dedicated  
29 alternative fuel vehicle or a <sup>1</sup>[flexi-fuel] dual-fuel alternative fuel<sup>1</sup>  
30 vehicle.

31 <sup>1</sup>["Conversion" or "converted"] "Converted"<sup>1</sup> means the alteration,  
32 change, reconstruction, transmutation, transconfiguration, or  
33 transmutation of a motor vehicle propelled solely by means of a  
34 fuel that is not an alternative fuel into an alternative fuel vehicle.

35 "Dedicated alternative fuel vehicle" means a motor vehicle  
36 constructed or converted to operate solely on alternative fuel;

37 "Dual-fuel alternative fuel vehicle" means a motor vehicle  
38 constructed or converted to be:

39 1) A bi-fuel vehicle, or capable of operating on alternative fuel and  
40 capable of operating on gasoline or diesel fuel;

41 2) A flexi-fuel vehicle, or capable of operating on a mixture  
42 containing 85% or more by volume of methanol, denatured ethanol,  
43 and other alcohols with gasoline or other fuels.

44 <sup>1</sup>["Flexi-fuel vehicle" means a motor vehicle that can operate on  
45 alternative fuel and on a fuel that is not an alternative fuel;]<sup>1</sup>

46 "Local unit" means a county, municipality, or school district, or any

1 political subdivision, authority, or agency thereof; and

2 "Motor vehicle" means all vehicles propelled otherwise than by  
3 muscular power, except those vehicles that run only upon rails or  
4 tracks and motorized bicycles, as defined pursuant to R.S.39:1-1<sup>1</sup>.

5

6 <sup>1</sup>[4. (New section) Any State agency or authority or any local unit  
7 engaged in motor vehicle fleet or central motor fuel operations shall,  
8 to the greatest extent possible, purchase, lease, and use alternative fuel  
9 vehicles.]<sup>1</sup>

10

11 <sup>1</sup>[5. (New section) No local unit may limit, restrict, or prohibit the  
12 use or transportation of any alternative fuel for alternative fuel vehicles  
13 except as authorized pursuant to law.]<sup>1</sup>

14

15 <sup>1</sup>[6.] 4.<sup>1</sup> (New section) The Department of Transportation, in  
16 consultation with the Department of Environmental Protection and any  
17 other appropriate State agencies, shall adopt, pursuant to the  
18 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
19 seq.), rules and regulations consistent with the purposes of this act  
20 concerning the transportation of alternative fuels in the State.

21

22 <sup>1</sup>[7]5<sup>1</sup>. (New section) In addition to any other authority or power  
23 conferred upon the Department of <sup>1</sup>[Transportation] the Treasury<sup>1</sup>, the  
24 Department of <sup>1</sup>[Transportation] the Treasury<sup>1</sup> may:

25 a. Acquire by purchase, lease, gift or otherwise, on terms and  
26 conditions and in the manner the Department of <sup>1</sup>[Transportation] the  
27 Treasury<sup>1</sup> deems proper, any land or property, real or personal,  
28 tangible or intangible, for the purpose of establishing or facilitating  
29 alternative fuel refueling and other facilities as needed to facilitate the  
30 use of alternative fuel vehicles;

31 b. Acquire by purchase, lease, gift or otherwise, on terms and  
32 conditions and in the manner the Department of <sup>1</sup>[Transportation] the  
33 Treasury<sup>1</sup> deems proper, alternative fuel vehicles and related  
34 equipment or facilities, for the purpose of promoting and facilitating  
35 the use of alternative fuel vehicles;

36 c. Plan, design, construct, equip, operate, improve or maintain,  
37 either directly, by contract, or by grant with any public or private  
38 entity, alternative fuel vehicles, refueling stations, and related  
39 equipment or facilities for the purposes of facilitating their use; <sup>1</sup>and<sup>1</sup>

40 d. <sup>1</sup>[Lease as lessor, sell or other dispose of, on terms and  
41 conditions that the Department of Transportation may prescribe as  
42 appropriate, real and personal property, including tangible or  
43 intangible property and consumable goods, or any interest therein, to  
44 any public or private entity in the exercise of its powers and the  
45 performance of its duties under this section, and may, in order to  
46 provide or encourage adequate and efficient use of alternative fuel

1 vehicles, refueling stations, and related equipment and facilities, lease  
2 or otherwise permit the use or occupancy of property without cost or  
3 at a nominal rental.] Enter into agreements with any federal agency,  
4 local unit, or private entity to permit the use of any State alternative  
5 fuel or motor fuel station with reimbursement for its use, including the  
6 cost of the alternative fuel or motor fuel and any administrative  
7 expenses, being made directly to the particular State agency incurring  
8 the cost.<sup>1</sup>

9  
10 <sup>1</sup>[8] 6<sup>1</sup>. (New section) Within 18 months of the date of enactment  
11 of this act, the Department of Environmental Protection, in  
12 consultation with the Department of Community Affairs, the  
13 Department of Transportation, the Department of the Treasury, <sup>1</sup>the  
14 Board of Public Utilities<sup>1</sup> and any other appropriate State agencies,  
15 shall prepare and submit to the Legislature, including the chairpersons  
16 of the Senate Environment Committee and the Assembly Environment  
17 <sup>1</sup>[and Energy], Science and Technology<sup>1</sup> Committee, or their  
18 successors as designated respectively by the President of the Senate  
19 and the Speaker of the General Assembly, a progress report  
20 concerning implementation of this act, which report shall also include  
21 recommendations on the progress of instituting a fuel distribution  
22 system for alternative fuel vehicles in the State and any  
23 recommendations for legislative or administrative action that the  
24 department deems appropriate.

25  
26 <sup>1</sup>[9. (New section) a. The Department of Community Affairs, in  
27 consultation with the Department of Environmental Protection, the  
28 Department of Transportation, and any other appropriate State  
29 agencies, shall adopt, pursuant to the "Administrative Procedure Act,"  
30 P.L.1968, c.410 (C.52:14B-1 et seq.) and within 180 days of the date  
31 of enactment of this act, rules and regulations amending the State  
32 Uniform Construction Code concerning the construction of alternative  
33 fuel refueling stations for alternative fuel vehicles.

34 (1) In adopting the rules and regulations prescribed pursuant to  
35 this section with respect to the construction of VNG refueling  
36 facilities, the Department of Community Affairs shall consider any  
37 rules and regulations concerning natural gas and compressed natural  
38 gas usage adopted by the United States Department of Transportation,  
39 and shall make use of the recommendations and standard procedures  
40 of the following organizations:

41 (a) The National Fire Protection Association (NFPA), One  
42 Batterymarch Park, Quincy, Massachusetts;

43 (b) The Compressed Gas Association (CGA), 1725 Jefferson Davis  
44 Highway, Arlington, Virginia; and

45 (c) The American Gas Association (AGA), 1515 Wilson  
46 Boulevard, Arlington, Virginia.

1 (2) In adopting the rules and regulations prescribed pursuant to  
2 this section with respect to the construction of propane refueling  
3 facilities, the Department of Community Affairs shall make use of the  
4 recommendations and standard procedures of the New Jersey Propane  
5 Gas Association.

6 b. As used in this section:

7 "Alternative fuel" means methanol, ethanol, or other alcohols,  
8 natural gas, compressed natural gas, propane, liquefied petroleum gas,  
9 hydrogen, coal-derived liquid fuels, electricity, or any other fuel  
10 substantially composed of nonpetroleum substances that is used in a  
11 clean-fuel vehicle that complies with the standards and requirements  
12 applicable to such vehicles under the federal "Clean Air Act," 42  
13 U.S.C. §7401 et seq.

14 "Alternative fuel vehicle" means a motor vehicle that is a dedicated  
15 alternative fuel vehicle or a flexi-fuel vehicle.

16 "Conversion" or "converted" means the alteration, change,  
17 reconstruction, transmutation, transconfiguration, or  
18 transmogrification of a motor vehicle propelled solely by means of a  
19 fuel that is not an alternative fuel into an alternative fuel vehicle.

20 "Dedicated alternative fuel vehicle" means a motor vehicle  
21 constructed or converted to operate solely on alternative fuel.

22 "Flexi-fuel vehicle" means a motor vehicle that can operate on  
23 alternative fuel and on a fuel that is not an alternative fuel.

24 "Motor vehicle" means all vehicles propelled otherwise than by  
25 muscular power, except those vehicles that run only upon rails or  
26 tracks and motorized bicycles.

27 "VNG" means vehicular natural gas.]<sup>1</sup>

28

29 <sup>1</sup>[10. Section 2 of P.L.1940, c.5 (C.54:30A-50) is amended to read  
30 as follows:

31 2. Definitions: As used in this act--unless the context otherwise  
32 requires:

33 (a) "Taxpayer" means any corporation subject to taxation under the  
34 provisions of this act. A person or business entity owning or operating  
35 a cogeneration facility as defined in subsection (j) of this section shall  
36 not be deemed a corporation subject to taxation under this act unless  
37 it shall be a public utility as specifically enumerated in sections 1 and  
38 6 of P.L.1940, c.5 (C.54:30A-49 and C.54:30A-54).

39 (b) "Real estate" means lands and buildings, but it does not include  
40 railways, tracks, ties, lines, wires, cables, poles, pipes, conduits,  
41 bridges, viaducts, dams and reservoirs (except that the lands upon  
42 which dams and reservoirs are situated are real estate), machinery,  
43 apparatus and equipment, notwithstanding any attachment thereof to  
44 lands or buildings.

45 (c) "Gross receipts" means all receipts from the taxpayer's business  
46 over, in, through or from the whole of its lines or mains but does not

1 include any sum or sums of money received by the taxpayer in payment  
2 for gas or electrical energy or water sold and furnished to another  
3 public utility which is also subject to the payment of a tax based upon  
4 its gross receipts, nor any sum or sums of money received by the  
5 taxpayer from a cogenerator in payment for cogenerated electrical  
6 energy resold by the taxpayer to the producing cogenerator where  
7 produced, nor any sum or sums of money received by the taxpayer  
8 from a cogenerator in payment for natural gas sold by the taxpayer to  
9 the cogenerator and separately metered for use in a cogeneration  
10 facility, nor in the case of a street railway or traction corporation, the  
11 receipts from the operation of autobuses or vehicles of the character  
12 described in R.S.48:15-41 through R.S.48:15-56, inclusive, nor in the  
13 case of a sewerage corporation, an amount equal to any sum or sums  
14 of money payable by such sewerage corporation to any board,  
15 commission, department, branch, agency or authority of the State or  
16 of any county or municipality, for the treatment, purification or  
17 disposal of sewage or other wastes, nor in the case of a water  
18 purveyor, the amount which represents the water tax imposed by  
19 section 11 of P.L.1983, c.443 (C.58:12A-21) and which is included in  
20 the tariff altered pursuant to section 6 of P.L.1983, c.443  
21 (C.58:12A-17) , nor any sum or sums of money received by the  
22 taxpayer in payment for natural gas or electricity or any other  
23 alternative fuel sold by the taxpayer and separately metered for use as  
24 a fuel for motor vehicles. For the purposes of this subsection,  
25 "alternative fuel" and "motor vehicle" mean the same as those terms  
26 are respectively defined pursuant to section 3 of P.L. , c. (C. )  
27 (now before the Legislature as this bill).

28 (d) "Scheduled property" means only those classes or types of  
29 property of a taxpayer set forth in section 10 of this act and which are  
30 to be used in computing the apportionment value as herein defined.

31 (e) "Unit value" means the value set forth in section 10 of this act  
32 to be uniformly applied to each of the several classes or types of  
33 scheduled property in computing the apportionment value.

34 (f) "Apportionment value" or "apportionment valuation" means the  
35 result obtained by multiplying the quantities of each class or type of  
36 scheduled property of a taxpayer by the applicable unit value, and the  
37 addition of such results.

38 (g) "Public street, highway, road or other public place" includes  
39 any street, highway, road or other public place which is open and used  
40 by the public, even though the same has not been formally accepted as  
41 a public street, highway, road, or other public place. However, for  
42 purposes of computing the tax in connection with lines or mains  
43 installed prior to February 19, 1991, "public street, highway, road or  
44 other public place" shall not mean or include non-restricted roadways,  
45 such as extended residential, commercial or recreational facility  
46 driveways, or dead end streets, [cul-de-sacs] culs-de-sac or alleys

1 which are connected to public roadways and are for access to or the  
2 use of supermarkets, shopping malls, planned communities and the  
3 connecting roads within or around the above facilities whether these  
4 roadways shall be located on public or private property, unless such  
5 shall have been determined a "public street, highway, road or other  
6 public place" for the purposes of P.L.1940, c.5 (C.54:30A-49 et seq.)  
7 prior to February 19, 1991.

8 (h) "Service connections" means the wires or pipes connecting the  
9 building or place where the service or commodity supplied by the  
10 taxpayer is used or delivered, or is made available for use or delivery,  
11 with a supply line or supply main in the street, highway, road, or other  
12 public place, or with such supply line or supply main on private  
13 property.

14 (i) "State Tax Commissioner" or "director" means the Director of  
15 the Division of Taxation in the Department of the Treasury.

16 (j) "Cogenerator" means a person or business entity which owns or  
17 operates a cogeneration facility in the State of New Jersey, which  
18 facility is a plant, installation or other structure whose primary  
19 purpose is the sequential production of electricity and steam or other  
20 forms of useful energy which are used for industrial, commercial,  
21 heating or cooling purposes; and which is designated by the Federal  
22 Energy Regulatory Commission, or its successor, as a "qualifying  
23 facility" pursuant to the provisions of the "Public Utility Regulatory  
24 Policies Act of 1978," Pub.L.95-617 (16 U.S.C. §2601 et Allen).

25 (k) "Corresponding therms of gas" or "corresponding  
26 kilowatthours of electricity" means all therms of gas or kilowatthours  
27 of electricity from the taxpayer's business over, on, in, through or from  
28 the whole of its lines or mains, excluding therefrom, however, (1) any  
29 therms of gas or kilowatthours of electricity as may have been sold and  
30 furnished to another public utility which is also subject to either the  
31 payment of a tax based upon gross receipts or the payment of a  
32 unit-based tax applied to therms of gas or kilowatthours of electricity;  
33 (2) any kilowatthours of cogenerated electrical energy resold by the  
34 taxpayer to a producing cogenerator where produced; [and] (3) any  
35 therms of natural gas sold by the taxpayer to a cogenerator and  
36 separately metered for use in a cogeneration facility ; and (4) any  
37 therms of natural gas or kilowatthours of electricity or any other  
38 alternative fuel sold by the taxpayer and separately metered for use as  
39 a fuel for motor vehicles. For the purposes of this subsection,  
40 "alternative fuel" and "motor vehicle" mean the same as those terms  
41 are respectively defined pursuant to section 3 of P.L. , c. (C. )  
42 (now before the Legislature as this bill).

43 (l) "Class" means any segment, grouping or other division of an  
44 electric company's or gas company's customers which is established for  
45 the purpose of charging rates for electric or gas service. For the  
46 purposes of this act, any such class shall be designated to be in the

1 residential class category or non-residential class category.

2 (m) With respect to electric companies, (1) "residential class  
3 category" means any class established by an electric company which  
4 generally includes customers taking electric service under rate  
5 schedules that are primarily residential in nature; and (2)  
6 "non-residential class category" means any class established by an  
7 electric company which generally includes customers taking electric  
8 service under rate schedules that are primarily non-residential in  
9 nature.

10 (n) With respect to gas companies, (1) "residential class category"  
11 means any class established by a gas company which generally includes  
12 customers taking natural gas service under rate schedules that are  
13 primarily residential in nature; and (2) "non-residential class category"  
14 means any class established by a gas company which generally includes  
15 customers taking gas service under rate schedules that are primarily  
16 non-residential in nature.

17 (cf: P.L.1991, c.184, s.8)]<sup>1</sup>

18

19 <sup>1</sup>[11.] 7.<sup>1</sup> This act shall take effect immediately.

20

21

22

23

24 The "Comprehensive Alternative Motor Fuels Promotion Act."