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ASSEMBLY, No. 483

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# STATE OF NEW JERSEY

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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,]<sup>1</sup> 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:

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

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

12

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

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

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

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

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

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

40 <sup>1</sup>"Dual-fuel alternative fuel vehicle" means a motor vehicle  
41 constructed or converted to be:

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

44 2) A flexi-fuel vehicle, or capable of operating on a mixture  
45 containing 85% or more by volume of methanol, denatured ethanol,

1 and other alcohols with gasoline or other fuels.<sup>1</sup>

2 "Local unit" means a county, municipality, or school district, or any  
3 political subdivision, authority, or agency thereof; and

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

7

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

12

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

16

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

23

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

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

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

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

42 d. <sup>1</sup>[Lease as lessor, sell or other dispose of, on terms and  
43 conditions that the Department of Transportation may prescribe as  
44 appropriate, real and personal property, including tangible or  
45 intangible property and consumable goods, or any interest therein, to

1 any public or private entity in the exercise of its powers and the  
2 performance of its duties under this section, and may, in order to  
3 provide or encourage adequate and efficient use of alternative fuel  
4 vehicles, refueling stations, and related equipment and facilities, lease  
5 or otherwise permit the use or occupancy of property without cost or  
6 at a nominal rental.] Enter into agreements with any federal agency,  
7 local unit, or private entity to permit the use of any State alternative  
8 fuel or motor fuel station with reimbursement for its use, including the  
9 cost of the alternative fuel or motor fuel and any administrative  
10 expenses, being made directly to the particular State agency incurring  
11 the cost.<sup>1</sup>

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

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

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

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

46 (b) The Compressed Gas Association (CGA), 1725 Jefferson Davis

1 Highway, Arlington, Virginia; and

2 (c) The American Gas Association (AGA), 1515 Wilson Boulevard,  
3 Arlington, Virginia.

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

9 b. As used in this section:

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

17 "Alternative fuel vehicle" means a motor vehicle that is a dedicated  
18 alternative fuel vehicle or a flexi-fuel vehicle.

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

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

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

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

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

31

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

34 2. Definitions: As used in this act--unless the context otherwise  
35 requires:

36 (a) "Taxpayer" means any corporation subject to taxation under the  
37 provisions of this act. A person or business entity owning or operating  
38 a cogeneration facility as defined in subsection (j) of this section shall  
39 not be deemed a corporation subject to taxation under this act unless  
40 it shall be a public utility as specifically enumerated in sections 1 and  
41 6 of P.L.1940, c.5 (C.54:30A-49 and C.54:30A-54).

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

1 lands or buildings.

2 (c) "Gross receipts" means all receipts from the taxpayer's business  
3 over, in, through or from the whole of its lines or mains but does not  
4 include any sum or sums of money received by the taxpayer in payment  
5 for gas or electrical energy or water sold and furnished to another  
6 public utility which is also subject to the payment of a tax based upon  
7 its gross receipts, nor any sum or sums of money received by the  
8 taxpayer from a cogenerator in payment for cogenerated electrical  
9 energy resold by the taxpayer to the producing cogenerator where  
10 produced, nor any sum or sums of money received by the taxpayer from  
11 a cogenerator in payment for natural gas sold by the taxpayer to the  
12 cogenerator and separately metered for use in a cogeneration facility,  
13 nor in the case of a street railway or traction corporation, the receipts  
14 from the operation of autobuses or vehicles of the character described  
15 in R.S.48:15-41 through R.S.48:15-56, inclusive, nor in the case of a  
16 sewerage corporation, an amount equal to any sum or sums of money  
17 payable by such sewerage corporation to any board, commission,  
18 department, branch, agency or authority of the State or of any county  
19 or municipality, for the treatment, purification or disposal of sewage or  
20 other wastes, nor in the case of a water purveyor, the amount which  
21 represents the water tax imposed by section 11 of P.L.1983, c.443  
22 (C.58:12A-21) and which is included in the tariff altered pursuant to  
23 section 6 of P.L.1983, c.443 (C.58:12A-17) , nor any sum or sums of  
24 money received by the taxpayer in payment for natural gas or electricity  
25 or any other alternative fuel sold by the taxpayer and separately  
26 metered for use as a fuel for motor vehicles. For the purposes of this  
27 subsection, "alternative fuel" and "motor vehicle" mean the same as  
28 those terms are respectively defined pursuant to section 3 of P.L. ,  
29 c. (C. ) (now before the Legislature as this bill).

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

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

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

40 (g) "Public street, highway, road or other public place" includes any  
41 street, highway, road or other public place which is open and used by  
42 the public, even though the same has not been formally accepted as a  
43 public street, highway, road, or other public place. However, for  
44 purposes of computing the tax in connection with lines or mains  
45 installed prior to February 19, 1991, "public street, highway, road or

1 other public place" shall not mean or include non-restricted roadways,  
2 such as extended residential, commercial or recreational facility  
3 driveways, or dead end streets, [cul-de-sacs] culs-de-sac or alleys  
4 which are connected to public roadways and are for access to or the use  
5 of supermarkets, shopping malls, planned communities and the  
6 connecting roads within or around the above facilities whether these  
7 roadways shall be located on public or private property, unless such  
8 shall have been determined a "public street, highway, road or other  
9 public place" for the purposes of P.L.1940, c.5 (C.54:30A-49 et seq.)  
10 prior to February 19, 1991.

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

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

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

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

46 (l) "Class" means any segment, grouping or other division of an

1 electric company's or gas company's customers which is established for  
2 the purpose of charging rates for electric or gas service. For the  
3 purposes of this act, any such class shall be designated to be in the  
4 residential class category or non-residential class category.

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

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

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

21

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

23

24

25

26

27 The "Comprehensive Alternative Motor Fuels Promotion Act."