

ASSEMBLY, No. 663

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman BAGGER

1 AN ACT concerning alternative fuels, amending R.S.54:39-2,  
2 supplementing P.L.1945, c.162 (C.54:10A-1 et seq.) and repealing  
3 section 1 of P.L.1971, c.52 (C.54:39-27.1).

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

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8 1. R.S.54:39-2 is amended to read as follows:

9 54:39-2. a. "Fuels" means (1) any liquid or gaseous substance  
10 commonly or commercially known or sold as gasoline, regardless of  
11 its classification or use; and (2) any liquid or gaseous substance used,  
12 offered for sale or sold for use, either alone or when mixed, blended,  
13 or compounded, which is capable of generating power for the  
14 propulsion of motor vehicles upon the public highways, except that  
15 "fuels" shall not include any alternative fuel as defined in subsection b.  
16 of this section; and shall include:

17 (a) All grades of motor gasoline, natural gasoline, marine gasoline,  
18 aviation gasoline, motor fuel blending naphthas, motor grade benzol  
19 and motor grade toluol; and

20 (b) Any liquid prepared, advertised, offered for sale or sold for use  
21 as or commonly and commercially used as a fuel in internal combustion  
22 engines, which when subjected to distillation in accordance with the  
23 latest revised standard method of test for distillation of gasoline,  
24 naphtha, kerosene, and similar petroleum products (American Society  
25 for testing materials Method D-86) shows not less than 10% distilled  
26 (recovered) below 347 degrees (347°) Fahrenheit and not less than  
27 95% distilled (recovered) below 464 degrees (464°) Fahrenheit; and

28 (c) All combustible gases which exist in a gaseous state at 60  
29 degrees (60°) Fahrenheit and at 14 7/10 (14.7) pounds per square inch  
30 absolute pressure, industrial naphthas and solvents, aromatic  
31 distillates, diesel fuel, additives, and all other products not included  
32 within the foregoing provisions of this section; provided, however,

**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.**

1 that any person dealing therein, shall at any time, and from time to  
2 time, upon written request of the director, report his receipts, sales,  
3 use and distribution of said combustible gases and said other products  
4 in a manner prescribed by the director; and any other liquids that are  
5 used or sold for use as a quantity extender to motor gasoline; and

6 (d) (Deleted by amendment, P.L.1992, c.23).

7 b. "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 c. The Director of the Division of Taxation in the Department of  
15 the Treasury, in consultation with the Commissioner of Environmental  
16 Protection, shall adopt, pursuant to the provisions of the  
17 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
18 seq.), rules and regulations establishing technical criteria for the  
19 exemption of alternative fuels from the tax imposed pursuant to  
20 R.S.54:39-1 et seq. as set forth in this section.

21 (cf: P.L.1992, c.23, s.1)

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23 2. (New section) a. A taxpayer shall be allowed a tax credit  
24 against the tax imposed pursuant to section 5 of P.L.1945, c.162  
25 (C.54:10A-5) equal to 25% of the cost of converting in this State a  
26 motor vehicle, as defined pursuant to R.S.39:1-1, to enable the motor  
27 vehicle to operate solely on alternative fuels or on both alternative  
28 fuels and traditional motor fuels. As used in this section, "alternative  
29 fuel" means methanol, ethanol, or other alcohols, natural gas,  
30 compressed natural gas, propane, liquefied petroleum gas, hydrogen  
31 coal-derived liquid fuels, electricity, or any other fuel substantially  
32 composed of nonpetroleum substances that is used in a clean-fuel  
33 vehicle that complies with the standards and requirements applicable  
34 to such vehicles under the federal "Clean Air Act," 42 U.S.C. §7401  
35 et seq.

36 b. To receive the credit established pursuant to this act, the  
37 taxpayer shall apply for and receive a certificate of eligibility from the  
38 Director of the Division of Motor Vehicles in the Department of Law  
39 and Public Safety. The certificate shall state that the motor vehicle has  
40 been converted to enable it to operate on alternative fuel or on both  
41 alternative fuels and traditional fuels.

42 c. The tax imposed for a fiscal or calendar accounting year  
43 pursuant to section 5 of P.L.1945, c.162, shall first be reduced by the  
44 amount of any credit allowed pursuant to section 19 of P.L.1983,  
45 c.303 (C.52:27H-78), and then by any credit allowed pursuant to  
46 section 42 of P.L.1987, c.102 (C.54:10A-5.3), prior to applying any

1 credits allowable pursuant to this section. Credits allowable pursuant  
2 to this section shall be applied in the order of the credits' tax years.  
3 The amount of the credits applied under this section against the tax  
4 imposed pursuant to section 5 of P.L.1945, c.162, for an accounting  
5 year shall not exceed 50% of the tax liability otherwise due and shall  
6 not reduce the tax liability to an amount less than the statutory  
7 minimum provided in subsection (e) of section 5 of P.L.1945, c.162.  
8 The amount of tax year credit otherwise allowable under this section  
9 which cannot be applied for the tax year due to the limitations of this  
10 subsection may be carried over, if necessary, to the ten accounting  
11 years following a credit's tax year.

12 d. The Director of the Division of Motor Vehicles, in consultation  
13 with the Commissioner of Environmental Protection and the Director  
14 of the Division of Taxation in the Department of the Treasury, shall  
15 adopt, pursuant to the provisions of the "Administrative Procedure  
16 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations  
17 establishing technical criteria concerning the conversion of a motor  
18 vehicle for the purpose of qualifying for the tax credit provided for in  
19 this section.

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21 3. Section 1 of P.L.1971, c.52 (C.54:39-27.1) is repealed.

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23 4. This act shall take effect immediately.

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#### STATEMENT

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28 This bill would amend the definition of "fuels" as set forth in the  
29 motor fuels tax law (R.S.54:39-1 et seq.) to exempt alternative fuels  
30 from the motor fuels tax. Under current law (C.54:39-27.1), natural  
31 gas and liquefied petroleum gas used to power motor vehicles are  
32 taxed at one-half the rate of taxation assessed traditional motor vehicle  
33 fuels such as gasoline, and other alternative fuels fitting within the  
34 statutory definition of "fuels" are taxable at the full rate of taxation  
35 established for traditional motor fuels. In providing for a total motor  
36 fuels tax exemption for alternative fuels, the bill would also thereby  
37 eliminate the double taxation of natural gas (and potentially electricity  
38 in the future) when this energy source is used to power motor vehicles.  
39 Currently, natural gas used to power vehicles is subject both to public  
40 utility taxes imposed pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.)  
41 and to the motor fuels tax.

42 Because the legislation would totally exempt alternative fuels from  
43 the motor fuels tax, the bill would thus repeal section 1 of P.L.1971,  
44 c.52 (C.54:39-27.1).

45 The bill would also create a new corporation business tax credit for  
46 the cost of converting a motor vehicle to operate on alternative fuels,

1 or on both alternative fuels and traditional fuels. To be eligible for the  
2 tax credit, a taxpayer must receive a certificate from the Division of  
3 Motor Vehicles stating that the motor vehicle has been converted to  
4 enable it to operate on alternative fuels. Eligible taxpayers would be  
5 allowed a tax credit against the tax imposed pursuant to section 5 of  
6 P.L.1945, c.162, equal to 25 percent of the cost of converting the  
7 motor vehicle.

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12 Exempts alternative fuels from motor fuels tax; provides corporation  
13 tax credit for vehicle conversion.