

No. 2004-178

AN ACT

SB 255

Relating to alternative fuels; establishing the Alternative Fuels Incentive Fund; authorizing grants and rebates to promote the use of alternative fuels; imposing duties on the Department of Environmental Protection; providing for an annual report; allocating funds collected from the utilities gross receipts tax; making an appropriation; abrogating regulations; and making a repeal.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Alternative Fuels Incentive Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Alcohols.” Fuels composed of 85% ethanol or methanol and 15% gasoline.

“Alternative energy source.” Includes, but is not limited to, any of the following sources of energy: wind, solar photovoltaic, solar thermal, combined heat and power, integrated gasification combined cycle, geothermal, low-impact hydroelectric, biomass, biologically derived methane gas, coal bed methane gas, fuel cells, waste coal and distributed generated systems.

“Alternative fuel producer.” A producer of an alternative fuel whose production facility of alternative fuel is located within this Commonwealth.

“Alternative fuel vehicle.” A self-propelled vehicle operating on an alternative fuel designed for transporting persons or property. This term includes a bi-fuel vehicle, dual-fuel vehicle, hybrid vehicle and dedicated vehicle.

“Alternative fuels.” Motor vehicle fuels and fuel systems which when compared to conventional gasoline or reformulated gasoline, diesel fuel, oil or coal will result in lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide or particulates, toxic air pollutants, greenhouse gases or any combination thereof. These shall include, but are not limited to, compressed natural gas (CNG), liquefied natural gas (LNG), liquid propane gas (LPG), alcohols (ethanol - e85 and methanol - m85), hydrogen, hythane (any combination of CNG and hydrogen), biofuels and electricity.

“American Society for Testing and Materials International.” The nonprofit organization which develops consensus standards for materials, products, systems and services.

“Bi-fuel vehicle” or “dual-fuel vehicle.” A vehicle that operates on an alternative fuel and gasoline or an alternative fuel and diesel fuel. This term includes original equipment manufacturer (OEM) and retrofitted vehicles.

“Biodiesel fuel.” Either of the following:

(1) A biofuel derived from vegetable oils or animal fats that is designated B100 and meets the American Society of Testing and Materials International specification D6751.

(2) Fuel comprised of 20% biodiesel with 80% diesel fuel that is designated B20.

“Biofuels.” Fuels derived from alcohols, ether, esters and other chemicals made from cellulosic biomass such as herbaceous and woody plants, agricultural and forestry residues and a large portion of municipal solid and industrial waste.

“Dedicated vehicle.” A vehicle that runs exclusively on an alternative fuel. This term includes an original equipment manufacturer or retrofit vehicle.

“Department.” The Department of Environmental Protection of the Commonwealth.

“Diesel fuel.” Diesel engine fuel and all other liquids suitable for the generation of power for the propulsion of motor vehicles except gasoline.

“Fleet.” A group of ten or more vehicles, comprised of passenger cars, light-duty trucks, buses and heavy-duty trucks up to 26,000 pounds gross vehicle weight that is owned and operated by a single school district, municipal authority, political subdivision, nonprofit entity, corporation, limited liability company or partnership located within this Commonwealth.

“Fund.” The Alternative Fuels Incentive Fund established under section 3.

“Gallon.” The quantity of fluid or liquid at a temperature of 60 degrees Fahrenheit necessary to completely fill a United States standard gallon liquid measure.

“Gasoline.” The same as a motor fuel and also means every liquid petroleum product, or combination thereof, other than solvents having an Atmospheric Pressure Index gravity of 46 degrees or above at a temperature of 60 degrees Fahrenheit and at atmospheric pressure and includes drip, casing head or natural gasoline. The term includes liquid of less than 46 degrees Atmospheric Pressure Index gravity at a temperature of 60 degrees Fahrenheit compounded, blended, manufactured or otherwise produced by mixing or blending gasoline or solvents with blending materials when the blended product can be used for generating power in internal combustion engines.

“Hybrid vehicle.” A motor vehicle that draws propulsion energy from onboard sources of stored energy that are both:

(1) An internal combustion engine using combustible fuel.

(2) A rechargeable energy storage system.

“Incremental cost.” Either of the following:

(1) The difference between the purchase price of an alternative fuel vehicle and the purchase price of a same or similar model gasoline-only or diesel-only fueled vehicle.

(2) The difference between the base price of conventional diesel fuel and biodiesel fuel.

“OEM.” The original equipment manufacturer.

“OEM vehicle.” A vehicle originally manufactured to run on an alternative fuel.

“Renewable energy.” Energy derived from solar, wind, geothermal and hydroelectric sources.

“Retrofit.” Install an alternative fuel system into a gasoline-fueled vehicle.

“Stationary power facility.” A fixed, in-place facility that generates electric power for distribution into the electric distribution system or for use onsite as primary power or backup power for critical need or at adjacent locations not connected to the electricity grid for primary power.

Section 3. Alternative Fuels Incentive Fund.

(a) Establishment.—There is hereby established a separate account in the State Treasury to be known as the Alternative Fuels Incentive Fund. This fund shall be administered by the department. The fund shall consist of that portion of revenues allocated from the utilities gross receipts tax as set forth in section 5.

(b) Expenditures.—

(1) Moneys from the fund shall be expended by the department:

(i) As grants to school districts, municipal authorities, political subdivisions, nonprofit entities, corporations, limited liability companies or partnerships incorporated or registered in this Commonwealth to provide funding for:

(A) The expenses relative to retrofitting vehicles to operate on alternative fuels as either a bi-fuel, dual-fuel, hybrid or dedicated vehicle.

(B) The incremental cost of purchase of bi-fuel, dual-fuel, hybrid or dedicated vehicles.

(C) The cost to purchase and install the necessary fleet refueling or home-refueling equipment for bi-fuel, dual-fuel, hybrid or dedicated vehicles.

(D) The cost to perform research, training development and demonstration of new applications or next-phase technology related to alternative fuel vehicles.

(ii) As grants to individual residents of this Commonwealth who purchase an alternative fuel vehicle for the cost to purchase and install the necessary home refueling equipment for bi-fuel, dual-fuel, hybrid or dedicated vehicles.

(iii) As grants to school districts, municipal authorities, political subdivisions and nonprofit entities to cover the incremental cost to purchase biofuel.

(iv) As rebates to residents of this Commonwealth to meet the incremental cost to individuals who purchase a bi-fuel, dual-fuel, hybrid or dedicated vehicle.

(2) Moneys from the fund may be expended by the department as reimbursement of up to 5¢ per gallon in a calendar year for up to 12,500,000 gallons of renewable fuels produced by a qualified renewable fuels producer.

(3) One year after the effective date of this act and for every year thereafter, the amount of funding by the department under this subsection shall be evaluated to determine whether an adjustment in funding level is appropriate. The evaluation criteria shall be based on economic and regulatory conditions that affect the feasibility of alternative fuels and the financial solvency of the fund. At no time shall the grant or rebate funding amount be below the amounts specified in this section.

(4) No more than 2% of the fund may be used to administer the provisions of this act.

(5) No more than 10% of the fund may be awarded to any one school district, municipal authority, political subdivision, nonprofit entity, corporation, limited liability company, partnership or resident of this Commonwealth in any one year, provided that the total amount of grants awarded and rebates provided to grant and rebate recipients within a political subdivision in a year shall not exceed 15% of the fund. However, if the total grant and rebate money to be awarded in that year is less than the total grant money available for that year, the department may increase the 10% and 15% funding levels established under this paragraph not to exceed 40% of the fund.

(c) Grant program.—The department shall establish a formula and method for the awarding of grants under the program. The department also shall establish a method by which grant applications will be prioritized according to, but not limited to, the following goals and criteria:

(1) The improvement of this Commonwealth's air quality;

(2) The fulfillment of the Commonwealth's responsibilities under the Clean Air Act (69 Stat. 322, 42 U.S.C. § 7401 et seq.).

(3) The protection of this Commonwealth's natural environment, including land, water and wildlife.

(4) The advancement of economic development in this Commonwealth and the promotion of this Commonwealth's indigenous resources.

(5) The reduction of this Commonwealth's dependence on imported crude oil and other petroleum products.

(6) The most cost-effective use of private and public funding.

(7) The transfer and commercialization of innovative alternative energy technologies.

(d) Rebate program.—There is hereby established a rebate program within the department for individuals residing in this Commonwealth who purchase a hybrid vehicle.

(1) The department shall establish a formula and method for the awarding of rebates under this program. The department shall publish this information yearly in the Pennsylvania Bulletin and may also publish this information on the department's World Wide Web site. Rebates shall be provided to the extent that funding is available for this purpose. To the extent that applications for rebates exceed the available funds for this program, the department may award rebates on a pro rata basis.

(2) A request for a rebate must be submitted to the department no later than six months after the purchase date of the hybrid vehicle, in a form and manner prescribed by the department. The department shall provide an application form to an individual upon request, and the department may make the application form on its World Wide Web site or through the place of purchase of the hybrid vehicle.

(3) Applicants shall provide a copy of a valid Pennsylvania vehicle registration and proof of purchase when making a request for a rebate under this program.

Section 4. Annual report.

The department shall annually make a report to the Environmental Resources and Energy Committee of the Senate and the Environmental Resources and Energy Committee of the House of Representatives on the activities undertaken pursuant to this act, including the number of grants awarded, rebates given and other expenditures from the fund.

Section 5. Interfund transfer.

(a) General rule.—The department may transfer money from the Alternative Fuels Incentive Fund to the Energy Development Fund one time during the fiscal year beginning July 1, 2004.

(b) Use of transferred funds.—

(1) Funds transferred to the Energy Development Fund under this section shall be used to provide financial assistance for research directly related to alternative energy sources and for the development and installation of stationary power facilities within this Commonwealth that utilize alternative energy sources to produce electric power. The financial assistance offered under this section shall be limited to grants and low-interest loans, at or below prevailing interest rates and loan guarantees.

(2) These funds shall also be used to support the establishment of public or private partnerships among postsecondary institutions and private sector organizations. The public or private sector partnerships should be designed to support a broad program of research and development of alternative energy power sources. Research funds shall be

directed toward those projects that can clearly demonstrate that the technology being studied can be practically applied.

(c) Development of guidelines.—Prior to any usage of the funds transferred to the Energy Development Fund, the department shall develop guidelines for the application and use of these funds, including all applicable eligibility criteria which shall also describe the manner of application for financial assistance and an application for assistance under this section. The department shall provide these guidelines to the majority and minority chairman of the Environmental Resources and Energy Committee of the Senate and the majority and minority chairman of the Environmental Resources and Energy Committee of the House of Representatives 60 days prior to issuing the guidelines to the general public. No financial assistance shall be provided to any applicant by the department until guidelines are issued to the general public. The department shall provide a reasonable opportunity for the general public to apply for funds under this section before making any financial assistance announcements or awards.

(d) Lapse.—Any unexpended funds from the transfer shall lapse to the General Fund on June 30, 2006.

Section 6. Appropriation.

An amount equal to 0.25 mills of the utilities' gross receipts tax collected during each fiscal year under Article XI of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, shall be appropriated annually from the General Fund to the Department of Environmental Protection on a continuing basis for the purpose of carrying out the provisions of this act.

Section 7. Regulations.

The department shall promulgate regulations necessary to carry out the purposes of this act.

Section 8. Repeal.

Chapter 72 of 75 Pa.C.S. is repealed. Regulations promulgated under 75 Pa.C.S. Ch. 72 are hereby abrogated to the extent that they are inconsistent with the provisions of this act.

Section 9. Effective date.

This act shall take effect immediately.

APPROVED—The 29th day of November, A.D. 2004.

EDWARD G. RENDELL