



# Ohio Legislative Service Commission

## Bill Analysis

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### Am. H.B. 336

130th General Assembly  
(As Passed by the House)

**Reps.** O'Brien and Hall, Stautberg, Celebrezze, Ashford, Baker, Barborak, Barnes, Beck, Bishoff, Blair, Boose, Boyd, Brown, Buchy, Burkley, Butler, Cera, Clyde, Conditt, Curtin, Damschroder, Derickson, DeVitis, Dovilla, Duffey, Fedor, Gerberry, Green, Grossman, Hackett, C. Hagan, R. Hagan, Henne, Hill, Hottinger, Johnson, Landis, Letson, Lundy, Maag, Mallory, McClain, Patmon, Patterson, Pelanda, Phillips, Ramos, Redfern, Retherford, Roegner, Rogers, Romanchuk, Ruhl, Schuring, Sheehy, Slaby, Slesnick, Smith, Stinziano, Thompson, Williams, Winburn, Amstutz, Hayes, Antonio, Anielski, Budish, Carney, Foley, Milkovich, Perales, Pillich, Rosenberger, Sears, Stebelton, Terhar, Batchelder

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## BILL SUMMARY

- Subjects compressed natural gas to the motor fuel tax, measured by gallon equivalents.
- Phases in the motor fuel tax rate for compressed natural gas over five years, with a rate of 7¢ per gallon in the first three years, 14¢ per gallon in the following two years, and the full 28¢ per gallon thereafter.
- Exempts gross receipts from the sale of compressed natural gas from the commercial activity tax, but subjects those receipts to the motor fuel receipts tax.
- Reduces the amount of sales tax due on the purchase or lease of a qualifying electric vehicle by up to \$500 for purchases and leases before 2015.
- Authorizes a nonrefundable income tax or commercial activity tax credit for the purchase of a new alternative fuel vehicle or the conversion of a traditional fuel vehicle to an alternative fuel vehicle.
- Provides that the credit equals 50% of the adjusted purchase price of the vehicle or of the cost of the conversion parts and equipment, subject to a per-vehicle cap of between \$5,000 and \$25,000 depending on gross vehicle rating.

- Limits the credit to alternative fuel vehicles purchased or converted within five years after the bill's effective date.
- Establishes the Gaseous Fuel Vehicle Conversion Program, to be administered by the Director of Environmental Protection.
- Permits the Director to make grants to eligible public entities and nonprofit corporations for the purpose of promoting the use of vehicle fleets that operate on cleaner fuels.
- Makes an appropriation.

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## **CONTENT AND OPERATION**

### **Taxation of compressed natural gas under the motor fuel tax**

The bill subjects compressed natural gas to Ohio's existing motor fuel tax. Under continuing law, Ohio levies an excise tax on all motor vehicle fuel used, distributed, or sold within Ohio and used to generate power for the operation of motor vehicles on Ohio public roads. This tax is levied at a rate of 28¢ per gallon and generally is payable by motor vehicle fuel wholesalers and distributors. Under current law, taxable motor fuel includes liquid motor fuels such as gasoline, diesel, kerosene, liquid petroleum gas, and liquid natural gas.<sup>1</sup>

The bill expands the definition of motor fuel to include compressed natural gas, subjecting compressed natural gas to the motor fuel tax if it is to be used to fuel vehicles on public roads in Ohio.<sup>2</sup> However, unlike liquid motor fuel, which, except for liquid natural gas, is taxed according to gallons received, the tax on compressed motor fuel is measured according to gallon equivalents. For compressed natural gas that is received through a dispenser capable of measuring gallons, the gallon equivalent standard is 5.67 pounds of compressed natural gas. For all other compressed natural gas, the gallon equivalent standard is either 126.67 cubic feet of compressed natural gas or the amount of compressed natural gas that has a lower heating value of 114,100 BTUs.<sup>3</sup>

#### **Temporary rate reduction**

The bill phases in the 28¢-per-gallon motor fuel tax rate for compressed natural gas over five years. For the first three years, beginning in the first month after the bill's

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<sup>1</sup> R.C. Chapter 5735.

<sup>2</sup> R.C. 5735.01.

<sup>3</sup> R.C. 5735.012 and 5735.015.



effective date, the rate equals 7¢ per gallon. For the following two years, the rate equals 14¢ per gallon. After five years, the rate increases to the full 28¢-per-gallon rate. Revenue collected both during and after the phase-in period is credited and distributed in the same proportion and manner as motor fuel tax collected under existing law.<sup>4</sup>

### **Taxation of compressed natural gas receipts**

By defining compressed natural gas as a form of motor fuel, the bill excludes receipts from the sale of compressed natural gas from the commercial activity tax (CAT) and instead subjects those receipts to a recently enacted tax on motor fuel receipts. Under continuing law, the CAT is a tax levied at a rate of 0.26% of taxable gross receipts from sales or exchanges in Ohio.<sup>5</sup> Beginning July 1, 2014, motor fuel receipts are excluded from the tax base of the CAT.<sup>6</sup> Taxation under the CAT then is replaced, as it applies to receipts from the sale or exchange of motor fuel, with a separate tax – the "motor fuel receipts tax" (MFRT). The MFRT is modeled on the CAT, but is based solely on receipts from one sale or exchange of motor fuel.

When motor fuel receipts were taxed under the CAT, the tax applied to receipts from most transactions involving the sale or exchange of motor fuel. Unlike the CAT, which could have applied to multiple transactions involving the same motor fuel, the MFRT was designed to apply to only one transaction in the motor fuel distribution chain – the first transaction in which motor fuel is sold for delivery to a location in the state. The rate of the MFRT is 0.65% of a taxpayer's motor fuel receipts.<sup>7</sup>

The MFRT uses the definition of motor fuel located in the motor fuel tax law.<sup>8</sup> The bill, by expanding the definition of motor fuel for purposes of the motor fuel tax, excludes from the CAT gross receipts from the sale of compressed natural gas in Ohio and subjects those receipts to the MFRT, beginning July 1, 2014.<sup>9</sup>

### **Electric vehicle sales tax reduction**

The bill authorizes a reduction in the amount of sales and use tax that would otherwise be owed on the purchase or lease of a qualifying electric vehicle. The tax

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<sup>4</sup> R.C. 5735.016.

<sup>5</sup> R.C. Chapter 5751.

<sup>6</sup> R.C. 5751.01(F)(2)(r), not in the bill.

<sup>7</sup> R.C. Chapter 5736.

<sup>8</sup> R.C. 5736.01, not in the bill.

<sup>9</sup> R.C. 5735.01.



reduction equals the lesser of \$500 or the amount of the tax otherwise due. If the vehicle is procured for personal use by an individual consumer, then the reduction applies to one purchase or lease of a qualified vehicle per year. If the vehicle is procured for use in a business, then the reduction applies to the purchase or lease of up to ten qualified vehicles per year.<sup>10</sup>

To qualify for the sales tax reduction, a vehicle must meet the following requirements:

(1) Be a four-wheeled vehicle manufactured primarily for use on public highways and not modified from its original manufacturer specifications;

(2) Have a maximum speed capability greater than or equal to 55 miles per hour;

(3) Be propelled "to a significant extent" by an electric motor that draws power from a battery with a capacity of at least four kilowatt-hours that can be recharged via an external source of electricity;

(4) Be registered in Ohio for operation on public highways;

(5) Be purchased or leased for personal or business use and not for the purpose of resale on or after the bill's effective date, but before January 1, 2015.<sup>11</sup>

Under current law, the purchase of motor vehicles that are registered in Ohio are subject to the state's sales or use tax and the use tax of the county or transit authority territory where registered. The state sales and use tax rate is 5<sup>3</sup>/<sub>4</sub>%; county and transit authority rates currently range from 1<sup>1</sup>/<sub>4</sub>% to 2<sup>3</sup>/<sub>4</sub>%. The reduction in tax would affect state, county, and transit authority tax collections in proportion to the relative rates of those taxes in the jurisdiction where the vehicle is first registered.

### **Alternative fuel vehicle tax credit**

The bill authorizes a nonrefundable credit against the income tax or commercial activity tax for the purchase or conversion of an alternative fuel vehicle. An alternative fuel vehicle includes any vehicle, including a bi-fueled or dual-fueled vehicle, that is registered for use on public highways and that runs on compressed natural gas, liquid natural gas, or liquid petroleum gas (e.g., propane).

To qualify for the credit, a taxpayer must purchase a new alternative fuel vehicle, or convert a traditional fuel vehicle (i.e., a vehicle that runs on gasoline or diesel) to an

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<sup>10</sup> R.C. 5739.025(H)(2).

<sup>11</sup> R.C. 5739.025(H)(1); Section 3.



alternative fuel vehicle, within five years after the bill's effective date. The purchase of a new alternative fuel vehicle must meet the following conditions:

(1) The taxpayer must purchase the vehicle from an original equipment manufacturer, automobile retailer, or after-market conversion facility;

(2) The taxpayer must be the first person to purchase the vehicle for personal use or for use in business and not for resale;

(3) The alternative fuel technology used in the vehicle must have received a compliance designation or been certified by the U.S. Environmental Protection Agency for new or intermediate use;

(4) If the vehicle runs on compressed natural gas, at least five years must remain until the date established by the manufacturer of the fuel tank as the end-of-life date for the tank.

### **Credit amount**

The amount of the credit equals 50% of the adjusted purchase price of the new alternative fuel vehicle or 50% of the cost of equipment and parts needed to convert a traditional fuel vehicle, subject to a per-vehicle cap based on the vehicle's gross vehicle rating. The "adjusted purchase price" of a new vehicle is the portion of the price of the vehicle that is attributable to the parts and equipment used for the storage of alternative fuel, the delivery of alternative fuel to the motor, or the exhaust of gases from the combustion of alternative fuel. For a converted vehicle, the cost of conversion parts and equipment may not include the cost of any parts and equipment that have previously been used to modify or retrofit another traditional fuel vehicle. For either a purchase or a conversion, the credit is limited to the one of the following amounts:

(1) If the vehicle has a gross vehicle rating of 8,500 pounds or less, \$5,000;

(2) If the vehicle has a gross vehicle rating of between 8,500 and 10,000 pounds, \$10,000;

(3) If the vehicle has a gross vehicle rating of more than 10,000 pounds, \$25,000.

### **Credit carry-forward and pass-through treatment**

A taxpayer may claim the credit for the taxable year or tax period in which the taxpayer purchases the new vehicle or the conversion parts and equipment. The credit allowed for a vehicle may be claimed against either the income or commercial activity tax, but not both. If the credit exceeds the taxpayer's tax liability for that year or tax



period, the taxpayer may carry the credit forward to future years or tax periods until it is fully used.

The bill allows the equity owners of a pass-through entity that purchases or converts a vehicle to claim their proportionate or distributive share of the credit against the income tax.<sup>12</sup>

## **Gaseous Fuel Vehicle Conversion Program**

The bill requires the Director of Environmental Protection to administer the Gaseous Fuel Vehicle Conversion Program. The purpose of the Program is to promote the conversion of public fleets to operate on cleaner fuels. Under the Program, the Director may make grants to eligible public entities and nonprofit corporations for the conversion of a vehicle to operate on gaseous fuel or for the incremental cost associated with the purchase of a vehicle originally equipped by the manufacturer to operate on gaseous fuel. "Incremental cost" means the excess cost associated with the purchase of a vehicle originally equipped by the manufacturer to operate on gaseous fuel as compared to the purchase of an equivalent vehicle that operates on gasoline or diesel fuel.<sup>13</sup>

Under the bill, "gaseous fuel" means compressed natural gas, liquefied natural gas, or liquid petroleum gas. "Compressed natural gas" means a clear, odorless, and noncorrosive natural gas that is compressed to a pressure of at least 3,800 pounds per square inch but less than 4,500 per square inch. "Liquefied natural gas" means natural gas that is cooled to -260 Fahrenheit and is in a liquefied state. "Liquid petroleum gas" means a material with a vapor pressure not exceeding that of commercial propane which is composed predominately of the following hydrocarbons or mixtures: propane, propylene, normal butane or isobutane, and butylene.<sup>14</sup>

### **Entities eligible to receive Program grants**

The Director may make grants to the following entities:<sup>15</sup>

- (1) State agencies;
- (2) Political subdivisions of the state;

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<sup>12</sup> R.C. 5747.89, 5747.98, 5751.55, and 5751.98.

<sup>13</sup> R.C. 122.079(A) and (B).

<sup>14</sup> R.C. 122.079(A).

<sup>15</sup> R.C. 122.079(A) and (B); R.C. 1702.01, not in the bill.



(3) City, local, exempted village, or joint vocational school districts;

(4) County transit systems, regional transit authorities, or regional transit commissions;

(5) Nonprofit corporations (domestic or foreign corporations formed otherwise than for the pecuniary gain or profit of, and whose net earnings or any part of them is not distributable to, its members, directors, officers, or other private persons).

### **Rulemaking**

The bill requires the Director to adopt rules in accordance with Ohio's Administrative Procedure Act<sup>16</sup> that are necessary for the administration of the Program. The rules must establish all of the following:<sup>17</sup>

(1) An application form and procedures governing the process for applying to receive a grant under the Program;

(2) Grant eligibility requirements;

(3) A maximum grant amount of \$500,000 per eligible entity;

(4) Any other procedures, criteria, or grant terms that the Director determines necessary to administer the Program.

### **Gaseous Fuel Vehicle Conversion Fund and appropriation**

The bill creates the Gaseous Fuel Vehicle Conversion Fund in the state treasury. The Fund is to consist of money transferred to the Fund by the General Assembly. Money in the Fund must be used solely to make grants under the Program. Any interest earned from money in the Fund must be used to administer the Program.<sup>18</sup>

The bill appropriates \$16 million per year in fiscal years 2014 and 2015 to the Gaseous Fuel Vehicle Conversion Fund. The amounts appropriated are to be transferred from the General Revenue Fund. The bill also states that it is the General Assembly's intent to continue appropriating to the Gaseous Fuel Vehicle Conversion Fund \$16 million per fiscal year through the end of fiscal year 2018.<sup>19</sup>

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<sup>16</sup> R.C. Chapter 119., not in the bill.

<sup>17</sup> R.C. 122.079(C).

<sup>18</sup> R.C. 122.079(D).

<sup>19</sup> Sections 4 through 6.



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## HISTORY

ACTION	DATE
Introduced	11-06-13
Reported, H. Finance & Appropriations	03-12-14
Passed House (92-0)	03-26-14

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