



Ohio Legislative Service Commission

Bill Analysis

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H.B. 335

130th General Assembly
(As Introduced)

Reps. Butler, J. Adams, Hall, Henne, O'Brien, Terhar, Boose

BILL SUMMARY

Green Fleets Loan Guarantee Program

- Creates the Green Fleets Loan Guarantee Program to guarantee the repayment of loans made by lending institutions to governmental entities and private businesses to fund the conversion of all or a portion of their fleet vehicles to run on natural gas fuel.
- Requires the loans to be repaid with the savings realized by recipients through the refueling of their converted vehicles.
- Specifies that a loan recipient is not liable to the lending institution for repayment of the loan if (1) the loan recipient complied with all of the conditions of the loan and (2) the savings realized when refueling its converted vehicles was not enough to repay the loan within ten years after the date the loan was made.

Inspection requirements for specified alternative fuel motor vehicles

- Requires the Superintendent of the State Highway Patrol to adopt rules governing the inspection of any motor vehicle for which registration or registration renewal in Ohio is sought and that is capable of operating on liquefied petroleum gas, compressed natural gas, liquefied natural gas, or any combination of those fuels.

Registration requirements for specified alternative fuel motor vehicles

- Requires the application for motor vehicle registration or registration renewal to include a statement indicating whether the motor vehicle is capable of using a specified alternative fuel, and if so, which type.

- Requires an applicant who seeks to register or renew the registration of a motor vehicle that is capable of operating on liquefied petroleum gas, compressed natural gas, liquefied natural gas, or any combination of those fuels to submit a valid inspection certificate along with the registration application.
- Requires the Registrar of Motor Vehicles or a deputy registrar to deny an application for motor vehicle registration if the owner does not have a valid inspection certificate when one is required under the bill or if the period of registration would exceed the period of validity of the inspection certificate.

Other provisions

- Clarifies the Fire Marshal's rule-making authority governing filling stations.
- Eliminates redundant language with regard to multi-year motor vehicle registrations.

Tax provisions

- Subjects compressed natural gas to the motor fuel tax, measured by gallon equivalents.
- Authorizes a three-year exemption from the motor fuel tax for propane and compressed natural gas, and phases in the full 28¢-per-gallon rate over three years.
- Exempts gross receipts from selling compressed natural gas from the commercial activity tax, but subjects those receipts to the motor fuel receipts tax.

CONTENT AND OPERATION

Green Fleets Loan Guarantee Program

The bill creates the Green Fleets Loan Guarantee Program within the Development Services Agency. Under the Program, the Director of Development Services may, on behalf of the state, enter into contracts to guarantee the repayment of loans made to governmental entities or private businesses to fund the conversion of all or a portion of their fleet vehicles to run on natural gas fuel.¹ The loans are to be repaid with the savings realized by recipients through the refueling of their converted vehicles.

For purposes of this portion of the bill, "natural gas fuel" is defined as any liquefied petroleum gas product, compressed natural gas product, or combination

¹ R.C. 122.079(B).

thereof, used in a motor vehicle, and "governmental entity" means a state agency or a political subdivision of the state.²

Eligibility for a loan guarantee

Before guaranteeing any such loan, the Director must determine that:

(1) The proposed use of the loan proceeds is economically sound.

(2) The rate of interest on the loan to be guaranteed is not excessive.

(3) Under the payment terms mandated by the bill (see below), the loan plus interest will be repaid within five years after the date the loan was made.³

The contract of guarantee is to make provisions for the conditions of the guarantee commitment, the time for and manner of fulfillment of the guarantee commitment, and any other terms customary to such guarantees and as the Director may approve.⁴

Loan payment terms

The bill requires the Director to contract with one or more financial institutions to issue credit cards to recipients of a loan guaranteed under the Program for use at fueling stations when purchasing natural gas fuel for the converted fleet vehicles that were funded by the loan. A loan recipient is to be given one credit card for each such vehicle.⁵

The financial institutions under contract with the Director must provide each loan recipient with a monthly statement that shows the account activity for all of the loan recipient's converted fleet vehicles that were funded by the loan. Based on the location of a particular fueling station, the financial institutions are to utilize the regional breakdown posted on the Agency's website (see below) to charge each loan recipient the following:

(1) For each fleet vehicle that, prior to the conversion, ran on gasoline, the average market price for gasoline in that region for each gallon equivalent of natural gas fuel purchased during the previous month;

² R.C. 122.079(A).

³ R.C. 122.079(C).

⁴ R.C. 122.079(E).

⁵ R.C. 122.0710(A).



(2) For each fleet vehicle that, prior to the conversion, ran on diesel fuel, the average market price for diesel fuel in that region for each gallon equivalent of natural gas fuel purchased during the previous month.⁶

Upon receipt of a loan recipient's monthly payment, the financial institutions are to reimburse the appropriate fueling station operators and remit the excess amount paid by the loan recipient to the Agency.⁷ The Agency is to record the amounts received and, for each loan recipient, transfer those amounts to the lending institution that made the particular loan. When the amounts transferred are enough to repay the loan plus interest, the credit cards issued to that loan recipient will be cancelled by the Agency.⁸

If a loan recipient fails to use the credit cards issued to it and pay the amount required by the bill, the loan recipient is to be given an opportunity to rectify the failure by paying the amount required. If the loan recipient fails to rectify the failure, or fails a second time to use the credit cards and make the required payments, the loan recipient will be required to immediately repay the loan in full.⁹

Regional breakdown of gas/diesel prices

The bill requires the Director to prepare a monthly breakdown of the average market price for gasoline and the average market price for diesel fuel in each region of the state and post the information on the Agency's website. The financial institutions that have contracted with the Director to provide credit cards to loan recipients are to use that breakdown when calculating the amount to charge the loan recipients for their natural gas fuel purchases.¹⁰

Liability for the loan

A recipient of a loan guaranteed under the Program is not liable to the lending institution in any manner for payment of the principal or interest on the loan if the loan recipient demonstrates both of the following:

- (1) It complied with all of the conditions of the loan.

⁶ R.C. 122.0710(B).

⁷ R.C. 122.0710(C).

⁸ R.C. 122.0711.

⁹ R.C. 122.0712.

¹⁰ R.C. 122.0714.



(2) The amount it paid in accordance with the bill's loan payment terms when refueling its converted fleet vehicles was not enough to repay the loan plus interest within ten years after the date the loan was made.¹¹

Loan Guarantee Fund

The loan guarantees provided under the Program are to be secured solely by and payable solely from the Green Fleets Loan Guarantee Fund, which the bill creates. The Fund is to be in the custody of the Treasurer of State but not part of the state treasury. It is to consist of all grants, gifts, and contributions of money lawfully designated for or deposited into the Fund and all money lawfully appropriated and transferred to it. Upon the request of the Director, the Treasurer of State may transfer to the Fund any unencumbered and available moneys in the existing Loan Guarantee Fund.¹² The guarantees do not constitute obligations of the state and moneys raised by taxation cannot be obligated or pledged for the payment of the guarantees.¹³

The Treasurer of State is to serve as agent for the Director in the making of deposits and withdrawals and maintenance of records pertaining to the Green Fleets Loan Guarantee Fund.¹⁴

Rule making

The Director is to adopt, in accordance with R.C. Chapter 119., any rules necessary for the implementation of this portion of the bill.¹⁵

Inspection requirements for specified alternative fuel motor vehicles

The bill requires the Superintendent of the State Highway Patrol, in consultation with the Registrar of Motor Vehicles and in accordance with the Administrative Procedure Act, to adopt rules governing the inspection of any motor vehicle for which registration or registration renewal is sought in Ohio and that is capable of operating on liquefied petroleum gas, compressed natural gas, liquefied natural gas, or any combination of those fuels. The purpose of the inspection is to determine whether the fuel system installed in a vehicle that operates on any of the specified alternative fuels is in safe operating condition.

¹¹ R.C. 122.0713.

¹² R.C. 166.06, not in the bill.

¹³ R.C. 122.079(D).

¹⁴ R.C. 122.079(F).

¹⁵ R.C. 122.0715.



With respect to any vehicle that was originally manufactured to operate on a specified alternative fuel, and for any vehicle that was converted to operate on a specified alternative fuel, the rules adopted by the Superintendent must establish procedures for vehicle inspection, establish a time frame for an initial vehicle inspection, require subsequent vehicle inspections every three years, and establish any other procedures or requirements that are determined by the Superintendent to be necessary for the administration of the inspection program. In addition, the rules must establish an exemption from an initial inspection for vehicles that are originally manufactured to operate on a specified alternative fuel and that are less than three years old.¹⁶

Under the bill, the cost of an inspection must be \$50, which is collected by the State Highway Patrol and deposited into the existing Highway Safety Fund.¹⁷ The Superintendent, via rules, is required to establish procedures for the issuance of an official inspection sticker and an official inspection certificate for any vehicle that meets the requirements of the inspection.¹⁸

If a vehicle is found to be unsafe for operation, a provision of current law allows the inspecting officer to order the vehicle removed from the highway and not operated (except for purposes of removal or repair) until the owner complies with a repair order issued by the officer. Additionally under current law, any person who drives or moves on a highway a vehicle that is in such unsafe condition as to endanger any person, or causes or knowingly permits such a vehicle to be driven or moved on a highway is guilty of a minor misdemeanor.¹⁹

Registration requirements for specified alternative fuel motor vehicles

Under the bill, in addition to all required contents under current law, an application for motor vehicle registration or registration renewal is required to include a statement indicating whether the motor vehicle is capable of using any of the following: E85 blend fuel, blended biodiesel, natural gas, liquefied petroleum gas, or hydrogen. If an applicant indicates that the vehicle for which the applicant seeks registration or registration renewal is capable of using one of the fuels listed above, the applicant must indicate which fuel. In addition, if the applicant seeks to register or renew the registration of a motor vehicle that is capable of using liquefied petroleum gas,

¹⁶ R.C. 4513.02(E)(1).

¹⁷ R.C. 4501.06.

¹⁸ R.C. 4513.02(E)(1)(e) and (2).

¹⁹ R.C. 4513.02(A), (F), (G), and (I).



compressed natural gas, liquefied natural gas, or any combination of those fuels, the applicant also must submit a copy of a valid inspection certificate issued under the bill for the motor vehicle. An applicant is prohibited from applying for a term of registration that will exceed the period of validity of the inspection certificate.²⁰

The Registrar or a deputy registrar is required to include the inspection certificate number in the permanent registration record of any motor vehicle that is capable of using liquefied petroleum gas, compressed natural gas, liquefied natural gas, or any combination of those fuels. If the applicant fails to submit a valid inspection certificate for such a vehicle, the Registrar or deputy registrar is required to refuse to register or renew the registration of the motor vehicle. Additionally, the Registrar or deputy registrar is prohibited from issuing a registration for a registration period that exceeds the period of validity of an inspection certificate.²¹

Other provisions

The bill clarifies the Fire Marshal's rule-making authority governing the equipment, operation, and maintenance of filling stations by including references to fuel dispensing equipment rather than gasoline dispensing equipment as in current law. The bill also eliminates redundant language with regard to the issuance of a multi-year motor vehicle registration.²²

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 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 (including propane), and liquid natural gas.²³

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.²⁴ However, unlike liquid motor fuel, which, except for liquid

²⁰ R.C. 4503.10(A)(2)(h) and (B)(3); 4503.103(A)(4).

²¹ R.C. 4503.10(B)(4)(f) and (B)(6)(b); 4503.103(A)(4).

²² R.C. 3741.14 and 4503.103(A)(1).

²³ R.C. Chapter 5735.

²⁴ R.C. 5735.01.



natural gas, is taxed according to gallons received, the tax on compressed motor fuel is measured according to gallon equivalents. Thus, the tax on compressed natural gas equals 28¢ per gallon equivalent of compressed natural gas received within Ohio, though the bill does provide a temporary rate reduction (see "**Temporary rate reduction**," below). The bill does not specify a standard to be are used to determine a gallon equivalent of compressed natural gas.²⁵

Temporary rate reduction

The bill temporarily reduces the 28¢-per-gallon motor fuel tax rate for propane and phases in the rate for compressed natural gas received by a motor fuel dealer. In the first three years, no tax would be imposed on either propane or compressed natural gas. Thereafter, the full 28¢-per-gallon tax rate is gradually phased in over three years. Revenue collected as a result of a reduced rate imposed during this phase-in period is credited and distributed in the same proportion and manner as motor fuel tax collected under the existing 28¢ rate.²⁶

The following schedule summarizes the tax rates that would be imposed under the bill:

| Time Period | Compressed Natural Gas Rate (per gallon equivalent) | Propane Rate (per gallon) |
|---------------------------------|---|---------------------------|
| Before the effective date | 0¢ | 28¢ |
| First three years ²⁷ | 0¢ | 0¢ |
| Fourth year | 9.3¢ | 9.3¢ |
| Fifth year | 18.6¢ | 18.6¢ |
| After fifth year | 28¢ | 28¢ |

Taxation of compressed natural gas receipts

The bill excludes receipts from the sale of natural gas from the commercial activity tax (CAT) and instead subjects those receipts to a recently enacted tax on motor

²⁵ R.C. 5735.012.

²⁶ R.C. 5735.015.

²⁷ The bill appears to inadvertently subject compressed natural gas to taxation at the 28¢ rate for the period from the bill's effective date to the first day of the following month (e.g., if the bill's effective date were March 15, 2014, the 28¢ tax would apply from that date until April 1). A corrective amendment will be forthcoming to correct the timing so that no tax is imposed on compressed natural gas during that interim period.

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.²⁸ Beginning July 1, 2014, motor fuel receipts are excluded from the tax base of the CAT.²⁹ 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.³⁰

The MFRT uses the definition of motor fuel located in the motor fuel tax law.³¹ 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, 2014.³²

HISTORY

| ACTION | DATE |
|------------|----------|
| Introduced | 11-06-13 |

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²⁸ R.C. Chapter 5751.

²⁹ R.C. 5751.01(F)(2)(r), not in the bill.

³⁰ R.C. Chapter 5736.

³¹ R.C. 5736.01, not in the bill.

³² R.C. 5735.01.

