

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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HOUSE DRH10317-MH-140 (03/27)

Short Title: Encourage LNG-Fueled Vehicles.

(Public)

Sponsors: Representatives Wray and Saine (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE INCENTIVES AND REGULATORY RELIEF FOR THE  
3 CONVERSION OF VEHICLES TO USE OF CERTAIN ALTERNATIVE FUELS AND  
4 FOR THE CONSTRUCTION OF ALTERNATIVE FUELING STATIONS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. This act shall be known as, and may be cited as, the "North Carolina  
7 Energy Market Expansion Act."

8 SECTION 2.(a) G.S. 105-129.16D is reenacted as it existed immediately before its  
9 repeal and reads as rewritten:

10 "§ 105-129.16D. Credit for constructing ~~renewable~~ alternative fuel facilities.

11 (a) ~~Dispensing~~—Credit. — A taxpayer that ~~constructs and installs~~ (i) purchases or  
12 constructs, (ii) installs, and (iii) places in service in this State a qualified commercial facility for  
13 dispensing renewable distributing, dispensing, or storing alternative fuel at a new or existing  
14 facility for distributing or dispensing fuel is allowed a credit against the income tax levied in  
15 Article 4 of this Chapter equal to fifteen percent (15%) twenty-five percent (25%) of the cost to  
16 the taxpayer of purchasing or constructing and installing the part of the dispensing facility,  
17 including pumps, compressors, storage tanks, and related equipment, that is directly and  
18 exclusively used for dispensing distributing, dispensing, or storing renewable fuel alternative  
19 fuel, as well as any improvements to an existing building required because of the presence or  
20 utilization of alternative fuels. A facility is qualified if the equipment used to store or distribute  
21 or dispense renewable alternative fuel is labeled for this purpose and clearly identified as  
22 associated with renewable alternative fuel.

23 The entire credit may not be taken for the taxable year in which the facility is placed in  
24 service but must be taken in three equal annual installments beginning with the taxable year in  
25 which the facility is placed in service. If, in one of the years in which the installment of a credit  
26 accrues, the portion of the facility directly and exclusively used for ~~dispensing distributing,~~  
27 dispensing, or storing renewable alternative fuel is disposed of or taken out of service, the  
28 credit expires and the taxpayer may not take any remaining installment of the credit. The  
29 taxpayer may, however, take the portion of an installment that accrued in a previous year and  
30 was carried forward to the extent permitted under G.S. 105-129.17.

31 (b) ~~Production~~—Credit. — A taxpayer that ~~constructs and places in service in this State a~~  
32 ~~commercial facility for processing renewable fuel is allowed a credit equal to twenty five~~  
33 ~~percent (25%) of the cost to the taxpayer of constructing and equipping the facility. The entire~~  
34 ~~credit may not be taken for the taxable year in which the facility is placed in service but must~~  
35 ~~be taken in seven equal annual installments beginning with the taxable year in which the~~  
36 ~~facility is placed in service. If, in one of the years in which the installment of a credit accrues,~~



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1 the facility with respect to which the credit was claimed is disposed of or taken out of service,  
2 the credit expires and the taxpayer may not take any remaining installment of the credit. The  
3 taxpayer may, however, take the portion of an installment that accrued in a previous year and  
4 was carried forward to the extent permitted under G.S. 105-129.17.

5 Notwithstanding subsection (d) of this section, this section is repealed effective for facilities  
6 placed in service on or after January 1, 2017, in the case of a taxpayer that meets both of the  
7 following conditions:

8 (1) Signs a letter of commitment with the Department of Commerce on or  
9 before September 1, 2013, stating the taxpayer's intent to construct and place  
10 into service in this State a commercial facility for processing renewable fuel.

11 (2) Begins construction of the facility on or before December 31, 2013.

12 (b1) Alternative Production Credit. — In lieu of the credit allowed under subsection (b) of  
13 this section, a taxpayer that constructs and places in service in this State three or more  
14 commercial facilities for processing renewable fuel and that invests a total amount of at least  
15 four hundred million dollars (\$400,000,000) in the facilities is allowed a credit equal to  
16 thirty five percent (35%) of the cost to the taxpayer of constructing and equipping the facilities.  
17 In order to claim the credit, the taxpayer must obtain a written determination from the Secretary  
18 of Commerce that the taxpayer is expected to invest within a five-year period a total amount of  
19 at least four hundred million dollars (\$400,000,000) in three or more facilities. The credit must  
20 be taken in seven equal annual installments beginning with the taxable year in which the first  
21 facility is placed in service. If, in one of the years in which the installment of credit accrues, a  
22 facility with respect to which the credit was claimed is disposed of or taken out of service and  
23 the investment requirements of this subsection are no longer satisfied, the credit expires and the  
24 taxpayer may take any remaining installment of the credit only to the extent allowed under  
25 subsection (b) of this section. The taxpayer may, however, take the portion of an installment  
26 under this subsection that accrued in a previous year and was carried forward to the extent  
27 permitted under G.S. 105-129.17. Notwithstanding the provisions of G.S. 105-129.17, a  
28 taxpayer may carry forward unused portions of the credit allowed under this subsection for the  
29 succeeding 10 years.

30 If a taxpayer that claimed a credit under this subsection fails to meet the requirements of  
31 this subsection but meets the requirements of subsection (b) of this section, the taxpayer forfeits  
32 the difference between the alternative credit claimed under this subsection and the credit  
33 allowed under subsection (b) of this section. A taxpayer that forfeits part of the alternative  
34 credit under this subsection is liable for the additional taxes avoided plus interest at the rate  
35 established under G.S. 105-241.21, computed from the date the additional taxes would have  
36 been due if the credit had not been allowed. The additional taxes and interest are due 30 days  
37 after the date the credit is forfeited. A taxpayer that fails to pay the additional taxes and interest  
38 by the due date is subject to penalties provided in G.S. 105-236.

39 (c) No Double Credit. — A taxpayer may not claim the credits allowed under  
40 subsections (b) and (b1) of this section with respect to the same facility. A taxpayer that claims  
41 any other credit allowed under this Chapter with respect to the costs of constructing and  
42 installing a facility may not take the credit allowed in this section with respect to the same  
43 costs.

44 (d) Sunset. — This section is repealed effective for facilities placed in service on or after  
45 January 1, ~~2014~~2025."

46 **SECTION 2.(b)** G.S. 105-129.15 reads as rewritten:

47 "**§ 105-129.15. Definitions.**

48 The following definitions apply in this Article:

49 (1) Alternative fuel. — Any of the following dispensed for use in a motor vehicle  
50 by a qualified commercial facility, as defined in G.S. 105-129.16D:

51 a. Compressed natural gas.

1           b.     Liquified natural gas.

2           c.     Liquified petroleum gas.

3       (1a) Business property. – Tangible personal property that is used by the taxpayer  
4       in connection with a business or for the production of income and is  
5       capitalized by the taxpayer for tax purposes under the Code. The term does  
6       not include, however, a luxury passenger automobile taxable under section  
7       4001 of the Code or a watercraft used principally for entertainment and  
8       pleasure outings for which no admission is charged.

9       ...  
10      (8) Renewable fuel. – Either of the following:

11           a.     Biodiesel, as defined in G.S. 105-449.60.

12           b.     Ethanol either unmixed or in mixtures with gasoline that are seventy  
13           percent (70%) or more ethanol by volume."

14           **SECTION 2.(c)** Article 3B of Subchapter I of Chapter 105 of the General Statutes  
15 is amended by adding a new section to read:

16   "**§ 105-129.16K. Credit for vehicles propelled by alternative fuel.**

17       (a) A taxpayer that places in service in this State a qualifying vehicle is allowed a credit  
18 as provided in this section. A taxpayer places in service a qualifying vehicle if the taxpayer  
19 purchases a qualifying vehicle or converts a currently owned vehicle into a qualifying vehicle.  
20 For a taxpayer that purchases a qualifying vehicle, the credit is fifty percent (50%) of the  
21 incremental cost. For a taxpayer that converts a currently owned vehicle, the credit is fifty  
22 percent (50%) of the conversion cost.

23       (b) Definitions. – The following definitions apply in this section:

24           (1) Alternative fuel heavy-duty vehicle. – A vehicle with a gross vehicle weight  
25 rating equal to or greater than 26,001 pounds that is propelled at least ninety  
26 percent (90%) by alternative fuel.

27           (2) Alternative fuel vehicle. – A vehicle with a gross vehicle weight rating less  
28 than 26,001 pounds that is propelled solely by alternative fuel.

29           (3) Bi-fuel vehicle. – A vehicle with a gross vehicle weight rating less than  
30 26,001 pounds that can be propelled by two separate fuel systems, one of  
31 which is alternative fuel.

32           (4) Conversion cost. – The cost to modify a vehicle propelled by gasoline or  
33 diesel to change the fuel it uses for propulsion to an alternative fuel. In the  
34 case of a bi-fuel vehicle, the cost to modify the vehicle to change the fuel it  
35 uses for partial propulsion to an alternative fuel.

36           (5) Incremental cost. – The cost determined by subtracting from the purchase  
37 price of a qualifying vehicle the manufacturer's list price of the same model  
38 motor vehicle designed to operate on gasoline or diesel, whichever is  
39 greater/less.

40           (6) Qualifying vehicle. – A vehicle that is used for commercial or business  
41 purposes and is an alternative fuel vehicle, an alternative fuel heavy-duty  
42 vehicle, or a bi-fuel vehicle.

43       (c) Ceilings. – The credit allowed by this section may not exceed the following:

44           (1) For an alternative fuel vehicle, eight thousand dollars (\$8,000).

45           (2) For a bi-fuel vehicle, six thousand dollars (\$6,000).

46           (3) For an alternative fuel heavy-duty vehicle, twelve thousand dollars  
47 (\$12,000).

48       (d) Sunset. – This section is repealed effective for qualifying vehicles placed in service  
49 on or after January 1, 2025."

50       **SECTION 3.** G.S. 105-130.5B reads as rewritten:

1 **"§ 105-130.5B. Adjustments when State decouples from federal accelerated depreciation**  
2 **and expensing.**

3 (a) Special Accelerated Depreciation. – ~~A~~ Except as provided in subsection (h) of this  
4 section, a taxpayer who takes a special accelerated depreciation deduction for property under  
5 section 168(k) or 168(n) of the Code must add to the taxpayer's federal taxable income  
6 eighty-five percent (85%) of the amount taken for that year under those Code provisions. A  
7 taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five  
8 taxable years following the year the taxpayer is required to include the add-back in income.

9 ...  
10 (h) Special Rule for Alternative Fuel Vehicles. – A taxpayer who takes a special  
11 accelerated depreciation deduction under section 168(k) of the Code in any year with respect to  
12 an alternative fuel vehicle is not required to add to the taxpayer's federal taxable income any  
13 portion of the amount taken for that year under such Code provision with respect to such  
14 property. For this purpose, an alternative fuel vehicle shall mean a motor vehicle intended for  
15 highway use that is fueled by alternative fuel, as defined by G.S. 105-129.15."

16 **SECTION 4.** G.S. 20-118(c) is amended by adding a new subdivision (18) to read:

17 "(18) A motor vehicle that is fueled, wholly or partially, by natural gas may  
18 operate on the highways of the State with a weight no more than 2,000  
19 pounds higher than the otherwise applicable weight limit under subsection  
20 (b) of this section. To be eligible for this exception, the operator of the  
21 vehicle must be able to demonstrate that the vehicle is an alternative fuel  
22 heavy-duty vehicle, a bi-fuel vehicle using natural gas, or a vehicle that has  
23 been converted to an alternative fuel heavy-duty vehicle. The allowance may  
24 not authorize any extension of the limitations provided on federal interstate  
25 highways in this State, unless the limitations or exceptions are authorized by  
26 the federal government. For purposes of this subdivision, alternative fuel  
27 heavy-duty vehicle and bi-fuel vehicle shall have the meaning set forth in  
28 G.S. 105-129.16K."

29 **SECTION 5.** Section 2 is effective for taxable years beginning on or after January  
30 1, 2015. The remainder of this act is effective when it becomes law.