

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 308 Session of 2013

INTRODUCED BY SAYLOR, AUMENT, BAKER, CUTLER, DENLINGER, EVANKOVICH, GINGRICH, GODSHALL, GROVE, C. HARRIS, HICKERNELL, KAUFFMAN, F. KELLER, KORTZ, MARSHALL, MATZIE, MILLER, MOUL, PICKETT, ROCK, SIMMONS, SWANGER, WATSON, PEIFER, MURT AND JAMES, FEBRUARY 5, 2013

AS REPORTED FROM COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 10, 2013

AN ACT

1 Amending the act of January 8, 1960 (1959 P.L.2119, No.787),
2 entitled, as amended, "An act to provide for the better
3 protection of the health, general welfare and property of the
4 people of the Commonwealth by the control, abatement,
5 reduction and prevention of the pollution of the air by
6 smokes, dusts, fumes, gases, odors, mists, vapors, pollens
7 and similar matter, or any combination thereof; imposing
8 certain powers and duties on the Department of Environmental
9 Resources, the Environmental Quality Board and the
10 Environmental Hearing Board; establishing procedures for the
11 protection of health and public safety during emergency
12 conditions; creating a stationary air contamination source
13 permit system; providing additional remedies for abating air
14 pollution; reserving powers to local political subdivisions,
15 and defining the relationship between this act and the
16 ordinances, resolutions and regulations of counties, cities,
17 boroughs, towns and townships; imposing penalties for
18 violation of this act; and providing for the power to enjoin
19 violations of this act; and conferring upon persons aggrieved
20 certain rights and remedies," further providing for
21 definitions and for disposition of fees, fines and civil
22 penalties; establishing the Keystone Vehicle Program; and
23 making editorial changes.

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

26 Section 1. Section 3 of the act of January 8, 1960 (1959

1 P.L.2119, No.787), known as the Air Pollution Control Act,
2 amended July 9, 1992 (P.L.460, No.95), is amended to read:

3 Section 3. Definitions.--The following words and phrases,
4 when used in this act, unless the context clearly indicates
5 otherwise, shall have the meaning ascribed to them in this
6 section:

7 "Administrator." The Administrator of the United States
8 Environmental Protection Agency.

9 "Air contaminant." Smoke, dust, fume, gas, odor, mist,
10 radioactive substance, vapor, pollen or any combination thereof.

11 "Air contamination." The presence in the outdoor atmosphere
12 of an air contaminant which contributes to any condition of air
13 pollution.

14 "Air contamination source." Any place, facility or
15 equipment, stationary or mobile, at, from or by reason of which
16 there is emitted into the outdoor atmosphere any air
17 contaminant.

18 "Air pollution." The presence in the outdoor atmosphere of
19 any form of contaminant, including, but not limited to, the
20 discharging from stacks, chimneys, openings, buildings,
21 structures, open fires, vehicles, processes or any other source
22 of any smoke, soot, fly ash, dust, cinders, dirt, noxious or
23 obnoxious acids, fumes, oxides, gases, vapors, odors, toxic,
24 hazardous or radioactive substances, waste or any other matter
25 in such place, manner or concentration inimical or which may be
26 inimical to the public health, safety or welfare or which is or
27 may be injurious to human, plant or animal life or to property
28 or which unreasonably interferes with the comfortable enjoyment
29 of life or property.

30 "Applicant." A company which meets the eligibility

1 requirements for a Keystone Vehicle Grant.

2 "Approved air pollution control agency." An air pollution
3 control agency of any political subdivision of the Commonwealth
4 which has been granted approval by the Environmental Quality
5 Board.

6 "Board" or "EQB." The Environmental Quality Board.

7 "Clean Air Act." Public Law 95-95 as amended, 42 U.S.C. §
8 7401 et seq.

9 "Company." An entity doing business in this Commonwealth
10 which owns five or more vehicles and which is subject to tax
11 under Article III, IV or VI of the act of March 4, 1971 (P.L.6,
12 No.2), known as the Tax Reform Code of 1971. The term includes
13 the shareholder of a Pennsylvania S corporation that is eligible
14 for a Keystone Vehicle Grant.

15 "Conversion plan." A natural gas conversion plan.

16 "Dedicated compressed natural gas vehicle." A new vehicle
17 that operates on ninety per centum (90%) or more compressed
18 natural gas fuel and ten per centum (10%) or less on gasoline or
19 diesel fuel.

20 "Dedicated liquefied natural gas vehicle." A new vehicle
21 that operates on ninety per centum (90%) or more liquefied
22 natural gas fuel and ten per centum (10%) or less on gasoline or
23 diesel fuel.

24 "Department." The Department of Environmental [Resources]
25 Protection of the Commonwealth.

26 "Environmental Protection Agency" or "EPA." The United
27 States Environmental Protection Agency or the Administrator of
28 the United States Environmental Protection Agency.

29 "Fleet vehicle." A vehicle registered to a company.

30 "Gasoline-dispensing facility." A facility from which

1 gasoline is transferred to motor vehicle fuel tanks.

2 "Hearing board." The Environmental Hearing Board.

3 "Incremental cost." The excess cost of a new natural gas
4 motor vehicle over the price for a gasoline or diesel fuel motor
5 vehicle of the same or similar model.

6 "Keystone Vehicle Grant." A grant awarded under section
7 14.2.

8 "Natural gas conversion plan." A company's plan to convert
9 their vehicle fleet to compressed or liquid natural gas-fueled
10 vehicles by purchasing new natural gas motor vehicles.

11 "New natural gas motor vehicle." Any of the following:

12 (1) A dedicated compressed natural gas vehicle.

13 (2) A dedicated liquefied natural gas vehicle.

14 "Person." Any individual, public or private corporation for
15 profit or not for profit, association, partnership, firm, trust,
16 estate, department, board, bureau or agency of the Commonwealth
17 or the Federal Government, political subdivision, municipality,
18 district, authority or any other legal entity whatsoever which
19 is recognized by law as the subject of rights and duties.

20 "Plan approval." The written approval from the Department of
21 Environmental Resources which authorizes a person to construct,
22 assemble, install or modify any stationary air contamination
23 source or install thereon any air pollution control equipment or
24 device.

25 "Region." Any geographical subdivision of the Commonwealth
26 whose boundaries shall be determined by the Environmental
27 Quality Board.

28 "Secretary." The Secretary of Environmental Protection of
29 the Commonwealth.

30 "Small business stationary source." A stationary source

1 that:

2 (1) is owned or operated by a person that employs one
3 hundred (100) or fewer individuals;

4 (2) is a small business as defined in the Small Business Act
5 (Public Law 85-536, 15 U.S.C. § 78a et seq.);

6 (3) is not a major stationary source;

7 (4) does not emit fifty (50) tons per year of any regulated
8 pollutant; and

9 (5) emits less than seventy-five (75) tons per year of all
10 regulated pollutants.

11 "Start date." The date on which a company will begin a
12 company's conversion plan to natural gas motor vehicles.

13 "State implementation plan." The plan or plan revision that
14 a state is authorized and required to submit under section 110
15 of the Clean Air Act (Public Law 95-95 as amended, 42 U.S.C. §
16 7410) to provide for attainment of the national ambient air
17 quality standards.

18 "Stationary air contamination source." Any air contamination
19 source other than that which, when operated, moves in a given
20 direction under its own power.

21 Section 2. Section 9.2(a) of the act, amended July 7, 2011
22 (P.L.271, No.57), is amended to read:

23 Section 9.2. Disposition of Fees, Fines and Civil

24 Penalties.--(a) (1) Except as provided under ~~clause (2) and~~ <--
25 subsection (a.1), [all] the following shall apply:

26 (i) All fines, civil penalties and fees collected under this
27 act shall be paid into the Treasury of the Commonwealth in a
28 special fund known as the Clean Air Fund, hereby established,
29 which, along with interest earned, shall be administered by the
30 department for use in the elimination of air pollution.

1 (ii) The department may establish such separate accounts as
2 may be necessary or appropriate to implement the requirements of
3 this act and the Clean Air Act.

4 (iii) The board shall adopt rules and regulations for the
5 management and use of the money in the fund.

6 (2) Beginning in fiscal year 2013-2014 2015-2016 through <--
7 fiscal year 2018-2019 2020-2021, six million dollars <--
8 (\$6,000,000.00) of the amount of funds deposited in THE GROSS <--
9 RECEIPTS TAX COLLECTED UNDER ARTICLE XI OF THE ACT OF MARCH 4,
10 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, SHALL
11 BE TRANSFERRED TO the Clean Air Fund AND THE TRANSFERRED FUNDS <--
12 shall annually be used for Keystone Vehicle Grants.

13 * * *

14 Section 3. The act is amended by adding sections to read:

15 Section 14. Keystone Vehicle Program.--The Keystone Vehicle
16 Program is established to award Keystone Vehicle Grants and
17 shall be administered by the department in accordance with this
18 act.

19 Section 14.1. Keystone Vehicle Grants.--(a) In order to be
20 eligible to receive a Keystone Vehicle Grant, a company must
21 provide or demonstrate to the department the following:

22 (1) A comprehensive natural gas conversion plan of fleet
23 vehicles within four years of the start date which is
24 financially viable and includes the construction and utilization
25 of a natural gas fueling station in this Commonwealth or the use
26 of an existing natural gas fueling station in this Commonwealth.

27 (2) A statement of the projected usage of natural gas stated
28 in gasoline gallon equivalents accompanied by the methodology
29 utilized.

30 (3) The intent to maintain operations in this Commonwealth

1 for a period of not less than six (6) years from the start date.

2 (4) Either:

3 (i) an agreement between the applicant and a third-party
4 natural gas fueling provider in this Commonwealth to supply
5 natural gas fuel to the fleet if the Keystone Vehicle Grant is
6 awarded; or

7 (ii) a minimum fuel usage of 324,000 gasoline gallon
8 equivalents per year or more. Fuel usage requirements may be met
9 from a single applicant or multiple companies under a single
10 application if:

11 (A) The companies have an agreement to utilize a single
12 natural gas fueling facility in this Commonwealth.

13 (B) The companies demonstrate that the utilization of the
14 single natural gas fueling facility would be at a minimum level
15 of 324,000 gasoline gallon equivalents per year.

16 (5) The majority of operations to be performed by the new
17 natural gas motor vehicles purchased with the Keystone Vehicle
18 Grant will be for any of the following:

19 (i) The transportation of persons or goods from between
20 points within this Commonwealth.

21 (ii) The transportation of persons or goods from between
22 points in this Commonwealth and points outside this
23 Commonwealth.

24 (iii) A combination of the operations under subparagraphs
25 (i) and (ii).

26 (6) All of the new natural gas motor vehicles purchased with
27 the Keystone Vehicle Grant will be registered in this
28 Commonwealth.

29 (7) The company's start date will be no more than ninety
30 (90) days following the receipt of a Keystone Vehicle Grant by

1 the company.

2 (b) The following shall constitute eligible vehicle types
3 under the Keystone Vehicle Program:

4 (1) Dedicated compressed natural gas vehicles having a gross
5 vehicle weight rating of at least 33,000 pounds.

6 (2) Dedicated liquefied natural gas vehicles having a gross
7 vehicle weight rating of at least 33,000 pounds.

8 Section 14.2. Application Process.--(a) A company must
9 complete and submit to the department a Keystone Vehicle Program
10 application.

11 (b) The department shall review each application submitted
12 under subsection (a) and may, in its sole discretion, approve a
13 Keystone Vehicle Grant for eligible applicants. The department
14 and the company whose application has been approved for a
15 Keystone Vehicle Grant shall execute a commitment letter
16 containing the following:

17 (1) A description of the natural gas conversion plan which
18 shall include a statement of the projected minimum yearly
19 natural gas usage in terms of gasoline gallon equivalents.

20 (2) The amount of private capital investment in the plan.

21 (3) A signed statement that the company intends to complete
22 its plan and remain in this Commonwealth for six (6) years from
23 the start date.

24 (4) Any other information as the department deems
25 appropriate.

26 (c) After a commitment letter has been signed by the
27 Commonwealth and the company, the company shall receive a
28 Keystone Vehicle Grant.

29 Section 14.3. Keystone Vehicle Grant Funding and
30 Limitations.--(a) The amount under section 9.2(a)(2) shall be

1 transferred annually to fund the Keystone Vehicle Program.

2 (b) A company that is approved to receive a Keystone Vehicle
3 Grant shall use the funds to purchase new natural gas motor
4 vehicles.

5 (c) A company may receive a Keystone Vehicle Grant of up to
6 fifty per centum (50%) of the incremental cost for new natural
7 gas motor vehicles having a gross vehicle weight rating of at
8 least 33,000 pounds. The incremental cost for vehicles shall be
9 capped at fifty thousand dollars (\$50,000.00).

10 Section 14.4. Guidelines.--The department shall establish
11 guidelines for the approval of applications under section 14.2.

12 Section 14.5. Penalties.--(a) A company which receives a
13 Keystone Vehicle Grant and fails to attain at least ninety per
14 centum (90%) of the projected minimum yearly natural gas usage
15 as stated in the commitment letter by the conclusion of the
16 fourth year after the start date shall refund to the
17 Commonwealth the total amount of the Keystone Vehicle Grant.

18 (b) A company which receives a Keystone Vehicle Grant and
19 fails to complete the natural gas conversion plan within four
20 (4) years shall refund to the Commonwealth the total amount of
21 the Keystone Vehicle Grant.

22 (c) A company which receives a Keystone Vehicle Grant and
23 fails to maintain registration in this Commonwealth of all new
24 natural gas motor vehicles purchased with the Keystone Vehicle
25 Grant for a minimum of six (6) years shall refund to the
26 Commonwealth the total amount of the Keystone Vehicle Grant per
27 new natural gas motor vehicle for each new natural gas motor
28 vehicle that has not maintained registration in this
29 Commonwealth.

30 (d) If a company fails to meet the operations requirements

1 under section 14.1(a)(5), the total amount of the Keystone
2 Vehicle Grant shall be refunded to the Commonwealth.

3 (e) (1) The department may waive the penalties under
4 subsections (a), (b), (c) and (d) if it is determined that a
5 company's natural gas conversion plan was not completed because
6 of circumstances beyond the company's control, including natural
7 disasters, unforeseen industry trends or a loss of a major
8 supplier or market.

9 (2) The company shall promptly notify the department of
10 circumstances beyond its control which would delay completion of
11 the plan.

12 Section 14.6. Report to General Assembly.--Not later than
13 June 1, 2015, and each June 1 thereafter, the department shall
14 submit a report on the Keystone Vehicle Grants awarded under
15 section 14.2. The report shall include the names of companies
16 who utilized the Keystone Vehicle Grants as of the date of the
17 report and the amount of Keystone Vehicle Grants approved. The
18 report may include recommendations for changes in the
19 calculation or administration of the Keystone Vehicle Program
20 and other information as the department deems appropriate. The
21 report shall be submitted to all of the following:

22 (1) The chairman and minority chairman of the Appropriations
23 Committee of the Senate.

24 (2) The chairman and minority chairman of the Appropriations
25 Committee of the House of Representatives.

26 (3) The chairman and minority chairman of the Finance
27 Committee of the Senate.

28 (4) The chairman and minority chairman of the Finance
29 Committee of the House of Representatives.

30 Section 14.7. Regulations.--The secretary shall promulgate

1 regulations necessary for the implementation and administration
2 of the Keystone Vehicle Program.

3 Section 4. Sections 14 and 15 of the act are renumbered to
4 read:

5 Section [14] 41. Severability.--The provisions of this act
6 are severable and if any provision, sentence, clause, section or
7 part thereof shall be held illegal, invalid, unconstitutional or
8 inapplicable to any person or circumstances, such illegality,
9 invalidity, unconstitutionality or inapplicability shall not
10 affect or impair any of the remaining provisions, sentences,
11 clauses, sections or parts of the ordinance or their application
12 to him or to other persons and circumstances. It is hereby
13 declared to be the legislative intent that this act would have
14 been adopted if such illegal, invalid or unconstitutional
15 provision, sentence, clause, section or part had not been
16 included therein, and if the person or circumstances to which
17 the ordinance or any part thereof is inapplicable had not
18 specifically been exempted therefrom.

19 Section [15] 42. Effective Date.--This act shall take effect
20 immediately: Provided, however, That the rules and regulations
21 promulgated pursuant to the provisions of this act shall be of
22 no effect until one (1) year after the passage of this act.

23 Section 5. The provisions of 25 Pa. Code § 143.1(a) are
24 abrogated to the extent they are inconsistent with the
25 following:

26 (1) The amendment of sections 3 and 9.2 of the act.

27 (2) The addition of sections 14, 14.1, 14.2, 14.3, 14.4,
28 14.5, 14.6 and 14.7 of the act.

29 Section 6. This act shall take effect in 60 days.