

HOUSE BILL 1272

By Matheny

AN ACT to amend Tennessee Code Annotated, Title 4;  
Title 67 and Title 68, relative to alternative fuel  
vehicles and fueling infrastructure.

WHEREAS, the United States consumed nearly eighteen million eight hundred thousand (18,800,000) barrels of oil in 2011; and

WHEREAS, forty-five percent (45%) of the oil consumed was imported from other countries; and

WHEREAS, the petroleum market is a global market, and the price of oil is greatly affected by world events; and

WHEREAS, eighty-five percent (85%) of the natural gas consumed in the United States is produced domestically; and

WHEREAS, U.S. natural gas resources are estimated at one trillion seven hundred billion (1,700,000,000) cubic feet, enough to last one hundred (100) years or more; and

WHEREAS, the newly discovered, domestic natural gas reserves have led to low natural gas prices and price stability. Natural gas prices are unaffected by turmoil in the Middle East; and

WHEREAS, the United States leads the world in natural gas production, but lags in the usage of natural gas vehicles; and

WHEREAS, the price of compressed natural gas is nearly half the price of gasoline or diesel; and

WHEREAS, natural gas powers more than one hundred thousand (100,000) vehicles in the United States and roughly eleven million two hundred thousand (11,200,000) vehicles worldwide and is a good power choice for high-mileage fleets, such as buses and taxis, that are centrally fueled or operate within a limited area; and

WHEREAS, the advantages of natural gas as an alternative fuel include its domestic availability, widespread distribution infrastructure, low cost when compared with gasoline and diesel fuels, and clean-burning qualities; and

WHEREAS, the U.S. Department of Energy found that there are two (2) forms of natural gas which may be used in vehicles and are considered alternative fuels under the Energy Policy Act of 1992: compressed natural gases or liquefied natural gases; and

WHEREAS; the Tennessee general assembly finds that energy independence is a worthy public policy goal; now therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Energy Independence Act of 2013."

SECTION 2. Tennessee Code Annotated, Title 68, is amended by adding sections 3 through 5 of this bill as a new chapter.

SECTION 3. As used in this chapter, unless the context otherwise requires:

(1) "Bi-fuel vehicle" means a motor vehicle equipped to be propelled in part by compressed natural gas fuel and in part by diesel or gasoline fuel;

(2) "Company" means an entity licensed to do business in the state of Tennessee;

(3) "Dedicated compressed natural gas vehicle" means a motor vehicle that is produced by an original equipment manufacturer and operates on one hundred percent (100%) compressed natural gas fuel or that is produced by an original equipment manufacturer and converted to operate on one hundred percent (100%) compressed natural gas fuel using an EPA or CARB certified engine conversion system prior to being used by the eligible applicant;

(4) "Dedicated liquefied natural gas vehicle" means a motor vehicle that is produced by an original equipment manufacturer and operates on ninety percent (90%) or more liquefied natural gas fuel and ten percent (10%) or less on gasoline or diesel

fuel or that is produced by an original equipment manufacturer and converted to operate on ninety percent (90%) or more liquefied natural gas fuel and ten percent (10%) or less on gasoline or diesel fuel using an EPA or CARB certified engine conversion system prior to being used by the eligible applicant;

(5) "Department" means the department of environment and conservation, created by § 4-3-501;

(6) "Eligible applicant" means any of the following:

(A) A city or county government;

(B) A local education system; or

(C) A company;

(7) "Eligible vehicles" means:

(A) Dedicated compressed natural gas vehicles;

(B) Dedicated liquefied natural gas vehicles that are fleet vehicles and have a gross vehicle weight rating of at least fourteen thousand (14,000) pounds; and

(C) Bi-fuel vehicles that are fleet vehicles;

(8) "Fleet vehicle" means a vehicle registered to an eligible applicant;

(9) "Incremental purchase cost" means the excess cost of a dedicated compressed natural gas vehicle, a dedicated liquefied natural gas vehicle, or a bi-fuel vehicle over the price for a gasoline or diesel fuel motor vehicle of a similar model. The term includes the cost to retrofit a vehicle to operate as a dedicated compressed natural gas vehicle, a dedicated liquefied natural gas vehicle, or a bi-fuel vehicle;

(10) "Original equipment manufacturer" or "OEM" means the entity which originally manufactures the natural gas engine or the vehicle for sale; and

(11) "Start date" means the date on which an eligible applicant first places in service, through purchase or contract, an eligible vehicle.

#### SECTION 4.

(a) Grants under this chapter shall be made from amounts deposited in the energy independence fund pursuant to the general appropriations act. Funding is subject to appropriations in the general appropriations act.

#### SECTION 5.

(a) The natural gas energy independence program is hereby established. The purpose of the program is to fund projects under this chapter.

(b) Funds appropriated to the department in the energy independence fund shall be utilized for competitive grants to eligible applicants for eligible projects as authorized by this chapter. In order to be eligible to receive a grant, an eligible applicant must submit all of the following information to the department:

(1) A plan to convert three (3) or more fleet vehicles into eligible vehicles or to purchase three (3) or more eligible vehicles. The plan must include the construction and utilization of a new natural gas fueling station in Tennessee or the utilization of an existing natural gas fueling station;

(2) A statement of the projected usage of natural gas stated in gasoline or diesel gallon equivalents accompanied by the methodology utilized and a description of how the project will increase use of domestic natural gas in Tennessee;

(3) The cost of the project;

(4) The source and amount of any funds to be contributed by the eligible applicant;

(5) A statement of the eligible applicant's intent to maintain operations in Tennessee for a period of not less than six (6) years from the start date;

(6) A statement that all of the eligible vehicles purchased with the grant will be registered in Tennessee;

(7) Disclosure of the utilization of federal funds on the project to the extent that federal funds are available; and

(8) Whether or not the project includes the utilization of a natural gas fueling facility that is accessible to the public.

(c) Grant funds issued under this section shall be used in accordance with guidelines promulgated by the department. The guidelines shall:

(1) Restrict each grant for an eligible vehicle to cover no more than fifty percent (50%) of the incremental purchase cost;

(2) Limit the amount of the grant so that it shall not exceed twenty-five thousand dollars (\$25,000) for each fleet vehicle;

(3) In the case of grants awarded for eligible vehicles, provide for annual reporting to the department by the eligible applicant demonstrating the usage of compressed natural gas for a period not to exceed four (4) years after the start date. Such reporting shall include at a minimum, gallons purchased, purchase price, miles driven, driving or route habits, metrics regarding greenhouse gas offset, and savings or cost avoidance. The department is authorized to determine the supporting documentation required for such reports. Failure to provide reports to the department in a timely manner constitutes a breach of the grant agreement and, in the case of such a breach, the department is authorized to recoup any grant funds expended to an eligible applicant;

(4) Provide for procedures and documentation for reimbursement of eligible costs to applicants. No advance funding is permitted under this section; and

(5) Require each eligible vehicle for which a grant is awarded to comply with all federal and state safety requirements, including rules and regulations promulgated by the environmental protection agency.

(d) An applicant shall submit an application including supporting information as required by the department.

(e) The department shall review and prepare an assessment of each application and determine which projects will best utilize and promote the use of domestically produced natural gas in this state.

(f) The cost of administering the natural gas energy independence program shall be paid from the funds remaining within the Tennessee biodiesel manufacturers incentive fund as of December 31, 2012.

(g) The department shall create a report on the usage of the program by November 1, 2014. The report shall be published and maintained on the department's official web site and shall include:

(1) A list of all grants approved during the previous fiscal year, including the amount of each grant and a description of each approved project; and

(2) The estimated domestic energy benefits to date for all projects receiving funding during the fiscal year and the method used to determine estimated benefits.

SECTION 6. Tennessee Code Annotated, Section 4-3-1009, is amended by deleting the section in its entirety and substituting the following:

4-3-1109.

(a) The commissioner shall encourage the acquisition of energy-efficient and alternative fuel motor vehicles in the fleet of state vehicles. Each year, every effort should be made to achieve a target goal that one hundred percent (100%) of newly purchased passenger motor vehicles be energy-efficient or alternative fuel motor vehicles. The department shall ensure that at least twenty-five percent (25%) of newly purchased passenger motor vehicles procured for use in areas designated by the United States environmental protection agency (EPA) as nonattainment areas shall be hybrid-electric vehicles or vehicles powered by natural gas; provided, that such vehicles and fueling infrastructure are available at the time of procurement. In the event that such vehicles or fueling infrastructure is not available at the time of procurement, the department may instead meet this mandate by procuring compact fuel-efficient vehicles. In areas not designated by the EPA as nonattainment areas, the department shall ensure that at least twenty-five percent (25%) of newly purchased passenger motor vehicles are hybrid-electric vehicles, vehicles powered by natural gas, or compact fuel-efficient vehicles.

(b)

(1) Commencing June 30, 2013, the commissioner shall compile and maintain information on the nature of passenger motor vehicles that are owned and leased by the state, including, but not limited to:

(A) The number of passenger motor vehicles purchased during the fiscal year categorized by energy-efficiency; and

(B) The number of passenger motor vehicles owned as of June 30 of each year categorized by energy-efficiency.

(2) The commissioner shall file an annual report with the governor and the general assembly concerning such passenger motor vehicles.

The report shall include at a minimum:

(A) Problems or concerns the state may have experienced in meeting the target goal set pursuant to subsection (a) relative to obtaining such energy-efficient motor vehicles;

(B) Any savings or increased expenditures to the state in the purchase of, as well as the operation and maintenance cost of, such motor vehicles;

(C) Plans for integrating energy-efficient motor vehicles identified in subdivisions (c)(1)(E) and (G) into the state passenger motor vehicle fleet;

(D) The volume of gasoline or diesel displaced by the usage of energy efficient or alternative fuel vehicles; and

(E) The emissions reduction achieved by the usage of energy efficient or alternative fuel vehicles.

(3) The information compiled and maintained pursuant to subdivisions (b)(1) and (2) shall be made accessible to the public on the department's web site through a prominent link provided on the home page. In addition, the department shall submit an annual report containing the information compiled and maintained pursuant to subdivisions (b)(1) and (2) to the speaker of the senate and the speaker of the house of representatives and to the chairs of the committees concerning government operations and to the chair of the energy, agriculture and natural resources committee of the senate and the chair



of the agriculture and natural resources committee of the house of representatives.

(c) For purposes of this section unless the context otherwise requires:

(1) "Energy-efficient motor vehicle" means a passenger motor vehicle that is:

(A) An alternative fuel vehicle as defined by the Energy Policy Act of 1992 (P.L. 102-486);

(B) A flexible fuel vehicle (FFV) utilizing ethanol, biodiesel, or any other commercially available alternative fuel approved by the United States department of energy;

(C) A hybrid-electric vehicle (HEV);

(D) A compact fuel-efficient vehicle, defined as a vehicle powered by unleaded gasoline that has a United States EPA estimated highway gasoline mileage rating of at least twenty-five miles per gallon (25 mpg) or greater for the model year purchased;

(E) An electric vehicle (EV);

(F) A vehicle powered by natural gas; or

(G) A vehicle powered by ultra low sulfur diesel fuel that meets Bin 5, Tier II emission standards mandated by the EPA and that has an EPA-estimated highway mileage rating of at least thirty miles per gallon (30 mpg) or greater for the model year purchased; and

(2) "Passenger motor vehicle" means a motor vehicle designed for carrying six (6) or fewer adult passengers and used for the transportation

of persons; provided, that vans, including cargo vans, trucks, sport utility vehicles, and police pursuit vehicles shall not be considered passenger motor vehicles.

(d) For purchases of vehicles not designated as a "passenger motor vehicle" pursuant to subdivision (c)(2), including cargo vans, trucks, and sport utility vehicles, the department shall ensure that at least twenty-five percent (25%) of newly purchased vehicles are vehicles powered by natural gas, provided that such vehicles and fueling infrastructure are available at the time of procurement.

(e) In order to facilitate the development of natural gas fueling infrastructure, the department is authorized to participate in such pilot projects as may be necessary to insure the availability of natural gas fueling infrastructure throughout the interstate highway corridors in Tennessee.

SECTION 7. Tennessee Code Annotated, Section 4-22-101(b), is amended by inserting the following language after "hybrid electric vehicles": ", natural gas vehicles".

SECTION 8. Tennessee Code Annotated, Section 67-5-601, is amended by adding the following as a new appropriated designated subsection:

(f) The general assembly finds that any public utility property or commercial and industrial property that engages in the fueling of natural gas vehicles and is a certified alternative fueling site as described in the definition of "certified green energy production facility" in § 67-4-2004, is generally capable of fueling fewer types of vehicles due to limited availability from original equipment manufacturers, that use of such alternative, domestically produced transportation fuels should be encouraged to improve air quality and to enhance our nation's energy security, and immediate economic value for all purposes under this chapter should not initially exceed thirty percent (30%) of its total

installed costs. The general assembly further finds that, unless the findings are considered in the determination of the sound, intrinsic, and immediate economic value of such property for all purposes under this chapter, investment in property for fueling alternative fuel vehicles will be unreasonably discouraged, denying the citizens of this state the environmental benefits and domestic energy security associated with the use of natural gas as a transportation fuel. The assessor of property, in assessing any such commercial and industrial property, or the comptroller, in assessing any such public utility property, that engages in the fueling of motor vehicles with natural gas, shall take these findings by the general assembly into account in determining the sound, intrinsic, and immediate economic value of such property, when the property is initially appraised and each time the property is reappraised. A copy of the facility certification issued by the department of environment and conservation shall be required in order to qualify for such valuation. The valuation of personal property under this section shall also apply to machinery and equipment utilized in a natural gas vehicle fueling station. Such equipment shall include, but not be limited to: storage vessels, compressors, dryers, dispensers, piping, compressed or liquefied gas appliances, or any other item that is installed by a natural gas provider.

SECTION 9. Tennessee Code Annotated, Section 67-4-2004(9), is amended by deleting the subsection in its entirety and replacing with the following language:

(9) "Certified green energy production facility" means:

(A) A facility certified by the department of environment and conservation as producing electricity for use and consumption off the premises using clean energy technology. For the purposes of this subdivision (9)(A), clean energy technology means technology used to generate energy from geothermal, hydrogen, solar, and wind sources;

(B) A facility certified by the department of environment and conservation as an alternative motor vehicle fueling station that utilizes natural gas in compressed or liquid form for the purpose of fueling motor vehicles and that is projected to displace more than six thousand (6,000) gallons of petroleum annually; or

(C) A facility which utilizes natural gas in a combined heat and power configuration (CHP) for production of heat and electricity for consumption onsite.

SECTION 10. This act shall take effect upon becoming a law, the public welfare requiring it.