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SENATE BILL NO. 509
INTRODUCED BY S. DOHERTY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING TAX INCENTIVES FOR THE USE OF ALTERNATIVE FUELS IN VEHICLES; PROVIDING DEFINITIONS; PROVIDING A TAX CREDIT FOR THE INSTALLATION OF ALTERNATIVE FUEL APPARATUS AND RELATED INFRASTRUCTURE; PROVIDING A TAX CREDIT FOR THE CONSTRUCTION OF ALTERNATIVE FUEL DELIVERY SYSTEMS; PROVIDING A TAX CREDIT FOR THE PURCHASE OF NEW ALTERNATIVE FUEL VEHICLES; ~~EXEMPTING NEW ALTERNATIVE FUEL VEHICLES FROM THE LIGHT VEHICLE REGISTRATION FEE; REQUIRING MOTOR VEHICLE DEALERS TO NOTIFY COUNTY TREASURERS OF THE EMISSION CLASS OF NEW ALTERNATIVE FUEL VEHICLES; AMENDING SECTIONS 61-3-560 AND 61-4-112, MCA;~~ AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 5], the following definitions

apply:

(1) "Alternative fuel" means:

(a) electricity;

(b) liquefied petroleum gas, COMPRESSED natural gas, LIQUEFIED NATURAL GAS, hydrogen, ~~or~~ a blend of hydrogen with liquefied petroleum or natural gas, OR ANY OTHER FUEL RECOGNIZED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY that is:

(i) used in an engine that is certified to meet, at a minimum, the United States environmental protection agency low emission vehicle standards pursuant to 40 CFR 88.104-94 or 88.105-94; or

(ii) used in an engine that is certified by the engine modifier to meet the addendum to memorandum 1-A of the United States environmental protection agency;

(c) alcohol fuels that contain not less than 85% alcohol by volume; or

(d) a combination of at least 70% of another kind of fuel and not more than 30% of a petroleum-based fuel used in an engine that meets the United States environmental protection agency low



1 emission vehicle standards pursuant to 40 CFR 88.104-94 or 88.105-94 and that is certified by the engine
2 manufacturer to consume at least 70% of another kind of fuel during normal vehicle operations.

3 (2) "Alternative fuel delivery system" means any facility that provides for the fueling of an
4 alternative fuel vehicle.

5 (3) ~~(a)~~ "Alternative fuel vehicle" means a self-propelled vehicle that is registered and titled in this
6 state for operation on the highways and that is primarily propelled by an alternative fuel and includes
7 neighborhood electric vehicles, bifuel vehicles, DUAL FUEL VEHICLES, FLEXIBLE FUEL VEHICLES, HYBRID FUEL
8 VEHICLES, and dedicated vehicles.

9 ~~————(b) An alternative fuel vehicle does not include a motorcycle, motor-driven cycle, all-terrain vehicle,~~
10 ~~or any vehicle that is not designed primarily for operation on highways.~~

11 (4) "Bifuel vehicle" means a vehicle that is capable of operating on either gasoline or an alternative
12 fuel but does not include a vehicle that is capable of operating on a mixture of two or more fuel types.

13 (5) "Construction costs" means the costs associated with the PURCHASE, INSTALLATION, AND
14 CONSTRUCTION OF EQUIPMENT USED EXCLUSIVELY FOR an alternative fuel delivery system.

15 (6) "Dedicated vehicle" means a vehicle that is capable of operating only on a single alternative
16 fuel.

17 (7) "DUAL FUEL VEHICLE" MEANS A VEHICLE THAT RUNS ON A TRADITIONAL FUEL AND AN ALTERNATIVE FUEL
18 SIMULTANEOUSLY.

19 (8) "FLEXIBLE FUEL VEHICLE" MEANS A VEHICLE THAT IS ABLE TO OPERATE USING ETHANOL, GASOLINE, OR ANY
20 COMBINATION OF ETHANOL AND GASOLINE.

21 (9) "HYBRID FUEL VEHICLE" MEANS A VEHICLE THAT IS CAPABLE OF OPERATING WITH ELECTRICITY AND AT LEAST
22 ONE OTHER SOURCE OF FUEL.

23 ~~(7)(10)~~ "Incremental cost" means the amount by which the cost of an alternative fuel vehicle
24 exceeds the cost of the same model of a conventionally fueled vehicle that is similarly equipped. For a zero
25 emission vehicle, incremental cost is assumed to be ~~\$10,000~~ or 25% of the cost of a conventionally
26 fueled vehicle, ~~whichever is more.~~

27 ~~————(8) "Manufacturer's base retail price" means the lowest retail price of the make and model of a~~
28 ~~new motor vehicle suggested by the manufacturer, excluding any amount paid for an item installed in the~~
29 ~~new motor vehicle that was not identified in the dealer's wholesale invoice received from the manufacturer~~
30 ~~of the new motor vehicle and that does not improve air quality in this state.~~

1 ~~(9)~~(11) (a) "Neighborhood electric vehicle" means a motor vehicle that meets the standards
2 prescribed in 49 CFR 571.500, except that if a vehicle is designed to be operated at speeds of 20 miles
3 an hour or less, the vehicle is not required to have a 17-digit vehicle identification number.

4 (b) Neighborhood electric vehicle does not include a motorized wheelchair or electric bicycle.

5 ~~(10)~~(12) "New motor vehicle" means a vehicle for which a license is sought and for which an
6 original application for title that includes a manufacturer's statement of origin is made after its conversion
7 to operate on alternative fuel.

8 ~~(11)~~(13) "Vehicle refueling apparatus" means any of the following:

9 (a) a natural gas compression appliance that delivers a maximum of 10 to 15 standard cubic feet
10 of fuel a minute and that is used for slow-fill, onsite refueling;

11 (b) tanks and dispensers used to store and deliver liquefied alternative fuels; or

12 (c) equipment, excluding wall sockets and extension cords, necessary to provide an electric charge
13 for an electric vehicle.

14

15 NEW SECTION. Section 2. Credit for vehicle refueling apparatus and infrastructure. (1) (a) There
16 is a credit against the taxes otherwise due under chapter 30 or 31 for purchases of a vehicle refueling
17 apparatus for installation on one or more properties located in this state for the taxpayer's use.

18 (b) There is a credit against the taxes otherwise due under chapter 30 or 31 for any infrastructure
19 necessary for the operation of a vehicle refueling apparatus purchased for installation on the taxpayer's
20 property located in this state, as provided in subsection (1)(a), including gas or electric infrastructure from
21 the closest main or transformer but not more than 100 feet.

22 (2) The maximum credit that a taxpayer may claim in a year under subsections (1)(a) and (1)(b)
23 is an amount equal to 50% of the equipment and labor costs for the installation of a vehicle refueling
24 apparatus and related infrastructure, but the total credit may not exceed \$5,000.

25 (3) If the amount of the tax credit allowed under subsections (1)(a) and (1)(b) exceeds the
26 taxpayer's income tax liability for the tax year, the amount that exceeds the tax liability may be carried
27 forward for deduction from the taxpayer's income tax liability in the succeeding tax year or years for a
28 period of up to 5 years.

29 (4) If the credit is claimed by a small business corporation, a partnership, a limited liability
30 partnership, or a limited liability company, the credit must be attributed to the individual shareholders,

1 partners, members, or managers in the same proportion used to report income or loss for state tax
2 purposes.

3

4 NEW SECTION. **Section 3. Credit for alternative fuel delivery systems.** (1) There is credit against
5 the taxes otherwise due under chapter 30 or 31 for construction costs incurred for constructing an
6 alternative fuel delivery system in this state that is capable of dispensing an alternative fuel to alternative
7 fuel vehicles. The alternative fuel delivery system must be accessible to the public.

8 (2) The amount of the credit allowed under subsection (1) is equal to ~~50%~~ 25% of the
9 construction costs incurred, up to a maximum of \$200,000. A taxpayer may take a credit pursuant to this
10 section for each variation of alternative fuel type dispensed through the alternative fuel delivery system.

11 (3) If the taxpayer enters into a lease agreement for the alternative fuel delivery system, the lessor
12 may claim a share of the tax credit allowed under this section as provided in the lease agreement, except
13 that the total amount claimed by the lessor and lessee may not be more than the tax credit allowed under
14 this section.

15 (4) If the amount of the tax credit determined under subsection (2) exceeds the taxpayer's income
16 tax liability for the tax year, the amount that exceeds the tax liability may be carried forward for deduction
17 from the taxpayer's income tax liability in the succeeding tax year or years for a period of up to 15 years.

18 (5) If the credit is claimed by a small business corporation, a partnership, a limited liability
19 partnership, or a limited liability company, the credit must be attributed to the individual shareholders,
20 partners, members, or managers in the same proportion used to report income or loss for state tax
21 purposes.

22

23 NEW SECTION. **Section 4. Credit for alternative fuel vehicles.** (1) Subject to the conditions of this
24 section, there is a credit against the taxes otherwise due under chapter 30 or 31 for the purchase or lease
25 of one or more new motor vehicles, including a neighborhood electric vehicle, with original equipment for
26 operating on alternative fuels for use in this state.

27 (2) ~~(a) Except as provided in subsections (2)(b) and (2)(c), the THE amount of the credit allowed~~
28 ~~under subsection (1) for each alternative fuel vehicle is equal to 25% of the manufacturer's base retail~~
29 ~~price, excluding incremental costs, or the actual purchase price of the alternative fuel vehicle, whichever~~
30 ~~is less~~ THE INCREMENTAL COST OF THE ALTERNATIVE FUEL SYSTEM FOR EACH ALTERNATIVE FUEL VEHICLE NOT TO EXCEED:

1 (A) \$10,000 FOR HYBRID FUEL VEHICLES;

2 (B) \$5,000 FOR BIFUEL, DUAL FUEL, AND DEDICATED VEHICLES BELOW 26,000 POUNDS GROSS VEHICLE
3 WEIGHT; AND

4 (C) \$20,000 FOR BIFUEL, DUAL FUEL, AND DEDICATED VEHICLES AT OR ABOVE 26,000 POUNDS GROSS VEHICLE
5 WEIGHT.

6 ~~—— (b) If the alternative fuel vehicle operates at least one level below current emission standards~~
7 ~~established by the United States environmental protection agency, the taxpayer is allowed a credit in~~
8 ~~addition to the credit determined under subsection (2)(a) in an amount equal to 5% of the manufacturer's~~
9 ~~base retail price, exclusive of incremental costs, or the actual purchase price of the alternative fuel vehicle,~~
10 ~~whichever is less.~~

11 ~~—— (c) If the alternative fuel vehicle operates at more than two levels below current emission~~
12 ~~standards established by the United States environmental protection agency, the taxpayer is allowed a~~
13 ~~credit in addition to the credit determined under subsection (2)(a) in an amount equal to 10% of the~~
14 ~~manufacturer's base retail price, exclusive of incremental costs, or the actual purchase price of the~~
15 ~~alternative fuel vehicle, whichever is less.~~

16 (3) The tax credit allowed under subsection (1) may be claimed only if the alternative fuel vehicle
17 is certified to meet the United States environmental protection agency emission standards for the particular
18 type of alternative fuel vehicle for which the credit is claimed as prescribed by 40 CFR 88.104-94 or
19 88.105-94.

20 (4) In order to qualify for a tax credit allowed under subsection (1) or not to be subject to
21 recapture pursuant to [section 5], the following conditions apply:

22 (a) The taxpayer may not transfer ownership of the alternative fuel vehicle to any person other
23 than a member of the taxpayer's immediate family or a person who resides in the same household as the
24 taxpayer for 36 months after the initial registration of the alternative fuel vehicle. This requirement does
25 not apply if the alternative fuel vehicle is demolished or the taxpayer dies before the expiration of the
26 36-month period.

27 (b) The alternative fuel vehicle must be registered in this state for at least 36 months.

28 (c) Except as provided in subsections (4)(d) and (4)(e), the taxpayer shall provide evidence
29 satisfactory to the department that the alternative fuel vehicle uses at least ~~500~~ 400 gallons of an
30 alternative fuel in the initial tax year that the alternative fuel vehicle qualifies for the credit, prorated by

1 one-twelfth for each month during the initial tax year in which the alternative fuel vehicle is registered, and
2 in the next 2 tax years.

3 (d) If the alternative fuel vehicle is a bifuel vehicle that operates on compressed natural gas,
4 LIQUEFIED NATURAL GAS, ETHANOL, or liquefied petroleum gas, the taxpayer shall provide evidence satisfactory
5 to the department that the alternative fuel vehicle uses at least 50% of an alternative fuel for the initial
6 tax year, prorated by one-twelfth for each month during the initial tax year in which the alternative fuel
7 vehicle is registered, and in the next 2 tax years.

8 (e) If the alternative fuel vehicle ~~operates on electricity~~ IS A DUAL FUEL VEHICLE, FLEXIBLE FUEL VEHICLE,
9 OR HYBRID FUEL VEHICLE, the taxpayer shall provide evidence satisfactory to the department that the
10 alternative fuel vehicle ~~operates at least 50% of the time on electricity~~ REDUCES PETROLEUM-BASED FUEL
11 CONSUMPTION BY 50% OVER A CONVENTIONAL VEHICLE for the initial tax year, prorated by one-twelfth for each
12 month during the initial tax year in which the alternative fuel vehicle is registered, and in the next 2 tax
13 years.

14 (5) (a) If a person purchases an alternative fuel vehicle and then leases the alternative fuel vehicle
15 to another person, the lessor is not entitled to take a tax credit pursuant to this section for the purchase
16 of the alternative fuel vehicle but may claim a share of the tax credit for the lease of the alternative fuel
17 vehicle as provided in the lease agreement, except that the total amount claimed by the lessor and lessee
18 may not be more than the credit allowed pursuant to this section.

19 (b) A person who purchases an alternative fuel vehicle and then leases the alternative fuel vehicle
20 to a governmental entity is entitled to take a tax credit pursuant to this section for the purchase of the
21 alternative fuel vehicle.

22 (6) If the credit is claimed by a small business corporation, a partnership, a limited liability
23 partnership, or a limited liability company, the credit must be attributed to the individual shareholders,
24 partners, members, or managers in the same proportion used to report income or loss for state tax
25 purposes.

26 (7) If the amount of the tax credit allowed under subsection (1) exceeds the taxpayer's income
27 tax liability for the tax year, the amount that exceeds the tax liability may be carried forward for deduction
28 from the taxpayer's income tax liability in the succeeding tax year or years for a period of up to 3 years.
29 However, if the taxpayer no longer owns the alternative fuel vehicle, the taxpayer may not carry forward
30 any unused portion of the credit.

1

2 NEW SECTION. **Section 5. Recapture of alternative fuel vehicle tax credit.** (1) If a vehicle
3 purchased by a taxpayer does not comply with [section 4(4)(a) through (4)(e)] or rules adopted by the
4 department to implement [section 4(4)(a) through (4)(e)], the department shall recapture the tax credit
5 pursuant to subsection (2) or disallow the tax credit for a tax year. The department may waive the
6 requirements prescribed under [section 4 (4)(a) through (4)(e)] if both of the following apply:

7 (a) The taxpayer is unable to meet the requirement because of circumstances that would make
8 the requirement unfair or inequitable to the taxpayer.

9 (b) The taxpayer acted in good faith, and the taxpayer intended to primarily operate the vehicle
10 with alternative fuel.

11 (2) The department shall calculate any recapture amount by multiplying the tax credit by the
12 following percentages:

13 (a) 100% if the date of the event that causes recapture is within the first full year after the date
14 on which the vehicle was placed in service;

15 (b) 66 2/3% if the date of the event that causes recapture is within the second full year after the
16 date on which the vehicle was placed in service; or

17 (c) 33 1/3% if the date of the event that causes recapture is within the third full year after the
18 date on which the vehicle was placed in service.

19

20 ~~NEW SECTION. Section 6. Alternative fuel vehicle. "Alternative fuel vehicle" means a~~
21 ~~self-propelled vehicle that is registered and titled in this state for operation on the highways and that is~~
22 ~~primarily propelled by an alternative fuel and includes a neighborhood electric vehicle, a bifuel vehicle, and~~
23 ~~a dedicated vehicle, as those terms are defined in [section 1].~~

24

25 ~~Section 7. Section 61-3-560, MCA, is amended to read:~~

26 ~~"61-3-560. Light vehicle registration fee -- exemptions -- 24-month registration. (1) Except as~~
27 ~~provided in subsection (2), there is a registration fee imposed on light vehicles. The registration fee is in~~
28 ~~addition to other annual registration fees.~~

29 ~~(2) (a) Light vehicles that meet the description of property exempt from taxation under~~
30 ~~15-6-201(1)(a), (1)(c) through (1)(e), (1)(g), (1)(m), (1)(o), (1)(q), or (1)(w), 15-6-203, or 15-6-215, except~~

1 as provided in ~~61-3-520~~, are exempt from the fee imposed in subsection (1).

2 ~~—— (b) A motor vehicle owned by a disabled veteran qualifying for special license plates under~~
 3 ~~61-3-332(10) or a motor vehicle registered under 61-3-456 is exempt from the fee imposed by this~~
 4 ~~section.~~

5 ~~—— (c) An alternative fuel vehicle for which a license is sought and an original application for title that~~
 6 ~~includes a manufacturer's statement of origin and statement of emission class is made is exempt from the~~
 7 ~~fee imposed by this section for as long as the owner owns the alternative fuel vehicle. If the alternative~~
 8 ~~fuel vehicle is transferred to a new owner, the alternative fuel vehicle is subject to the fee imposed by this~~
 9 ~~section.~~

10 ~~—— (c)(d) A dealer for light vehicles is not required to pay the registration fee for light vehicles that~~
 11 ~~constitute inventory of the dealership and that are reported under 61-3-501.~~

12 ~~—— (3) The owner of a motor vehicle subject to the provisions of 61-3-313 through 61-3-316 may~~
 13 ~~register the light vehicle for a period not to exceed 24 months. The application for registration or~~
 14 ~~reregistration must be accompanied by the registration fee and all other fees required in this chapter for~~
 15 ~~each 12-month period of the 24-month period. However, the registration fees required under~~
 16 ~~61-3-321(1)(a) or (1)(b) paid at the time of registration or reregistration apply for the entire 24-month~~
 17 ~~registration period."~~

18

19 ~~—— **Section 8.** Section 61-4-112, MCA, is amended to read:~~

20 ~~—— "**61-4-112. New motor vehicles -- transfers by dealers.** (1) When a motor vehicle dealer transfers~~
 21 ~~a new motor vehicle to a purchaser or other recipient, the dealer shall:~~

22 ~~—— (a) issue and affix a permit as prescribed in 61-4-111(2)(a) for transfers of used motor vehicles~~
 23 ~~and retain a copy of the permit;~~

24 ~~—— (b) within 4 working days following the date of delivery of the new motor vehicle, forward to the~~
 25 ~~county treasurer of the county where the purchaser or recipient resides:~~

26 ~~—— (i) one copy of the permit issued under subsection (1)(a);~~

27 ~~—— (ii) an application for certificate of title with a notice of security interest, if any, executed by the~~
 28 ~~purchaser or recipient; and~~

29 ~~—— (iii) a statement of origin that shows that the vehicle has not previously been registered or owned,~~
 30 ~~except as otherwise provided in this section, by any person, firm, corporation, or association other than~~

1 a new motor vehicle dealer holding a franchise or distribution agreement from a new car manufacturer,
 2 distributor, or importer, and
 3 ~~—— (iv) if the vehicle is an alternative fuel vehicle, a statement of the emissions class of the alternative~~
 4 ~~fuel vehicle.~~
 5 ~~—— (2) Upon receipt from the county treasurer of the documents required under subsection (1), the~~
 6 ~~department shall issue a certificate of ownership and certificate of registration, together with a statement~~
 7 ~~of lien as provided in 61-3-202."~~

8
 9 NEW SECTION. Section 6. Codification instruction. (1) [Sections 1 through 5] are intended to
 10 be codified as an integral part of Title 15, chapter 32, and the provisions of Title 15, chapter 32, apply
 11 to [sections 1 through 5].

12 ~~—— (2) [Section 6] is intended to be codified as an integral part of Title 61, chapter 1, part 1, and the~~
 13 ~~provisions of Title 61, chapter 1, part 1, apply to [section 6].~~

14
 15 NEW SECTION. Section 7. Effective date. [This act] is effective on passage and approval.

16
 17 NEW SECTION. Section 8. Retroactive applicability. (1) [Section 2] applies retroactively, within
 18 the meaning of 1-2-109, to vehicle refueling apparatus and related infrastructure installed after December
 19 31, 2000.

20 (2) [Section 3] applies retroactively, within the meaning of 1-2-109, to alternative fuel delivery
 21 systems constructed and placed in service after December 31, 2000.

22 (3) [Section 4] applies retroactively, within the meaning of 1-2-109, to motor vehicle registration
 23 periods beginning after December 31, 2000.

24 - END -