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**ENGROSSED SUBSTITUTE HOUSE BILL 1809**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** House Finance (originally sponsored by Representatives Fey, Orcutt, and McBride)

AN ACT Relating to tax credits for clean alternative fuel commercial vehicles; amending RCW 82.16.0496; amending 2016 c 29 s 3 (uncodified); reenacting and amending RCW 82.04.4496; providing an effective date; and providing expiration dates.

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

**Sec.**  RCW 82.04.4496 and 2016 c 29 s 1 are each reenacted and amended to read as follows:

(1)(a) A person who is taxable under this chapter is allowed a credit against the tax imposed in this chapter according to the gross vehicle weight rating of the vehicle and the incremental cost of the vehicle purchased above the purchase price of a comparable conventionally fueled vehicle. The credit is limited, as set forth in the table below, to the lesser of the incremental cost amount or the maximum credit amount per vehicle purchased, and subject to a maximum annual credit amount per vehicle class.

|  |  |  |  |
| --- | --- | --- | --- |
| Gross Vehicle Weight | Incremental Cost Amount | Maximum Credit AmountPer Vehicle | Maximum Annual CreditPer Vehicle Class |
| Up to 14,000 pounds | 50% of incremental cost | ((~~$5,000~~)) $25,000 | $2,000,000 |
| 14,001 to 26,500 pounds | 50% of incremental cost | ((~~$10,000~~)) $50,000 | $2,000,000 |
| Above 26,500 pounds | 50% of incremental cost | ((~~$20,000~~)) $100,000 | $2,000,000 |

(b) On September 1st of each year any unused credits from any weight class identified in the table in (a) of this subsection must be made available to applicants applying for credits under any other weight class listed.

(c) The credit provided in this subsection (1) is available for the lease of a vehicle. The credit amount for a leased vehicle is equal to the credit in this subsection (1) multiplied by the lease reduction factor. The person claiming the credit for a leased vehicle must be the lessee as identified in the lease contract.

(2) A person who is taxable under this chapter is allowed, subject to the maximum annual credit per vehicle class in subsection (1)(a) of this section, a credit against the tax imposed in this chapter for the lesser of twenty-five thousand dollars or thirty percent of the costs of converting a commercial vehicle to be principally powered by a clean alternative fuel with a United States environmental protection agency certified conversion.

(3) The total credits under this section may not exceed the lesser of two hundred fifty thousand dollars or twenty-five vehicles per person per calendar year.

(4) A person may not receive credit under this section for amounts claimed as credits under chapter 82.16 RCW.

(5) Credits are available on a first-in-time basis. The department must disallow any credits, or portion thereof, that would cause the total amount of credits claimed under this section, and RCW 82.16.0496, during any calendar year to exceed six million dollars. The department must provide notification on its web site monthly on the amount of credits that have been applied for, the amount issued, and the amount remaining before the statewide annual limit is reached. In addition, the department must provide written notice to any person who has applied to claim tax credits in excess of the limitation in this subsection.

(6) For the purposes of the limits provided in this section, a credit must be counted against such limits for the calendar year in which the credit is earned.

(7) To claim a credit under this section a person must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department. No refunds may be granted for credits under this section.

(8) To claim a credit under this section, the person applying must:

(a) Complete an application for the credit which must include:

(i) The name, business address, and tax identification number of the applicant;

(ii) A quote or unexecuted copy of the purchase requisition or order for the vehicle;

(iii) The type of alternative fuel to be used by the vehicle;

(iv) The incremental cost of the alternative fuel system;

(v) The anticipated delivery date of the vehicle;

(vi) The estimated annual fuel use of the vehicle in ((~~its~~)) the anticipated duties;

(vii) The gross weight of ((~~the~~)) each vehicle;

(viii) For leased vehicles, a copy of the lease contract that includes the gross capitalized cost, residual value, and name of the lessee; and

(ix) Any other information deemed necessary by the department to support administration or reporting of the program.

(b) Within fifteen days of notice of credit availability from the department, provide notice of intent to claim the credit including:

(i) A copy of the order for the vehicle, including the total cost for the vehicle;

(ii) The anticipated delivery date of the vehicle, which must be within one ((~~hundred twenty days~~)) year of acceptance of the credit; and

(iii) Any other information deemed necessary by the department to support administration or reporting of the program.

(c) Provide final documentation within fifteen days of receipt of the vehicle, including:

(i) A copy of the final invoice for the vehicle;

(ii) A copy of the factory build sheet or equivalent documentation;

(iii) The vehicle identification number of ((~~the~~)) each vehicle;

(iv) The incremental cost of the alternative fuel system;

(v) Attestations signed by both the seller and purchaser of ((~~the~~)) each vehicle attesting that the incremental cost of the alternative fuel system includes only the costs necessary for the vehicle to run on alternative fuel and no other vehicle options, equipment, or costs; and

(vi) Any other information deemed necessary by the department to support administration or reporting of the program.

(9) A person applying for credit under subsection (8) of this section may apply for multiple vehicles on the same application, but the application must include the required information for each vehicle included in the application.

(10) To administer the credits, the department must, at a minimum:

(a) Provide notification on its web site monthly of the amount of credits that have been applied for, claimed, and the amount remaining before the statewide annual limit is reached;

(b) Within fifteen days of receipt of the application, notify persons applying of the availability of tax credits in the year in which the vehicles applied for are anticipated to be delivered;

(c) Within fifteen days of receipt of the notice of intent to claim the tax credit, notify the applicant of the approval, denial, or missing information in their notice; and

(d) Within fifteen days of receipt of final documentation, review the documentation and notify the person applying of the acceptance of their final documentation.

((~~(10)~~)) (11) If a person fails to supply the information as required in subsection (8) of this section, the department must deny the application.

((~~(11)~~)) (12)(a) Taxpayers are only eligible for a credit under this section based on:

(i) Sales or leases of new commercial vehicles and qualifying used commercial vehicles with propulsion units that are principally powered by a clean alternative fuel; or

(ii) Costs to modify a commercial vehicle, including sales of tangible personal property incorporated into the vehicle and labor or service expenses incurred in modifying the vehicle, to be principally powered by a clean alternative fuel.

(b) A credit is earned when ((~~qualifying purchases are made~~)) the purchaser or the lessee takes receipt of the qualifying commercial vehicle or the conversion is complete.

((~~(12)~~)) (13) A credit earned during one calendar year may be carried over to be credited against taxes incurred in the subsequent calendar year, but may not be carried over a second year.

((~~(13)~~)) (14)(a) Beginning November 25, 2015, and on the 25th of February, May, August, and November of each year thereafter, the department must notify the state treasurer of the amount of credits taken under this section as reported on returns filed with the department during the preceding calendar quarter ending on the last day of December, March, June, and September, respectively.

(b) On the last day of March, June, September, and December of each year, the state treasurer, based upon information provided by the department, must transfer a sum equal to the dollar amount of the credit provided under this section from the multimodal transportation account to the general fund.

((~~(14)~~)) (15) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Auto transportation company" means any corporation or person owning, controlling, operating, or managing any motor propelled vehicle, used in the business of transporting persons for compensation over public highways within the state of Washington, between fixed points or over a regular route.

(b) "Clean alternative fuel" means electricity, dimethyl ether, hydrogen, methane, natural gas, liquefied natural gas, compressed natural gas, or propane.

((~~(b)~~)) (c) "Commercial vehicle" means any commercial vehicle that is purchased by a private business and that is used exclusively in the provision of commercial services or the transportation of commodities, merchandise, produce, refuse, freight, ((~~or~~)) animals, or passengers, and that is displaying a Washington state license plate. All commercial vehicles that provide transportation to passengers must be operated by an auto transportation company.

((~~(c)~~)) (d) "Gross capitalized cost" means the agreed upon value of the commercial vehicle and including any other items a person pays over the lease term that are included in such cost.

((~~(d)~~)) (e) "Lease reduction factor" means the vehicle gross capitalized cost less the residual value, divided by the gross capitalized cost.

((~~(e)~~)) (f) "Qualifying used commercial vehicle" means vehicles that:

(i) Have an odometer reading of less than ((~~thirty~~)) four hundred fifty thousand miles;

(ii) Are less than ((~~two~~)) ten years past their original date of manufacture;

(iii) Were modified after the initial purchase with a United States environmental protection agency certified conversion that would allow the propulsion units to be principally powered by a clean alternative fuel; and

(iv) Are being sold for the first time after modification.

((~~(f)~~)) (g) "Residual value" means the lease-end value of the vehicle as determined by the lessor, at the end of the lease term included in the lease contract.

((~~(15)~~)) (16) Credits may be earned under this section from January 1, 2016, through January 1, 2021, except for credits for leased vehicles, which may be earned from July 1, 2016, through January 1, 2021.

((~~(16)~~)) (17) Credits earned under this section may not be used after January 1, 2022.

(18) This section expires January 1, 2022.

**Sec.**  RCW 82.16.0496 and 2016 c 29 s 2 are each amended to read as follows:

(1)(a) A person who is taxable under this chapter is allowed a credit against the tax imposed in this chapter according to the gross vehicle weight rating of the vehicle and the incremental cost of the vehicle purchased above the purchase price of a comparable conventionally fueled vehicle. The credit is limited, as set forth in the table below, to the lesser of the incremental cost amount or the maximum credit amount per vehicle purchased, and subject to a maximum annual credit amount per vehicle class.

|  |  |  |  |
| --- | --- | --- | --- |
| Gross Vehicle Weight | Incremental Cost Amount | Maximum Credit AmountPer Vehicle | Maximum Annual CreditPer Vehicle Class |
| Up to 14,000 pounds | 50% of incremental cost | ((~~$5,000~~)) $25,000 | $2,000,000 |
| 14,001 to 26,500 pounds | 50% of incremental cost | ((~~$10,000~~)) $50,000 | $2,000,000 |
| Above 26,500 pounds | 50% of incremental cost | ((~~$20,000~~)) $100,000 | $2,000,000 |

(b) On September 1st of each year any unused credits from any weight class identified in the table in (a) of this subsection must be made available to applicants applying for credits under any other weight class listed.

(c) The credit provided in this subsection (1) is available for the lease of a vehicle. The credit amount for a leased vehicle is equal to the credit in this subsection (1) multiplied by the lease reduction factor. The person claiming the credit for a leased vehicle must be the lessee as identified in the lease contract.

(2) A person who is taxable under this chapter is allowed, subject to the maximum annual credit per vehicle class in subsection (1)(a) of this section, a credit against the tax imposed in this chapter for the lesser of twenty-five thousand dollars or thirty percent of the costs of converting a commercial vehicle to be principally powered by a clean alternative fuel with a United States environmental protection agency certified conversion.

(3) The total credits under this section may not exceed two hundred fifty thousand dollars or twenty-five vehicles per person per calendar year.

(4) A person may not receive credit under this section for amounts claimed as credits under chapter 82.04 RCW.

(5) Credits are available on a first-in-time basis. The department must disallow any credits, or portion thereof, that would cause the total amount of credits claimed under this section, and RCW 82.04.4496, during any calendar year to exceed six million dollars. The department must provide notification on its web site monthly on the amount of credits that have been applied for, the amount issued, and the amount remaining before the statewide annual limit is reached. In addition, the department must provide written notice to any person who has applied to claim tax credits in excess of the limitation in this subsection.

(6) For the purposes of the limits provided in this section, a credit must be counted against such limits for the calendar year in which the credit is earned.

(7) To claim a credit under this section a person must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department. No refunds may be granted for credits under this section.

(8) To claim a credit under this section, the person applying must:

(a) Complete an application for the credit which must include:

(i) The name, business address, and tax identification number of the applicant;

(ii) A quote or unexecuted copy of the purchase requisition or order for the vehicle;

(iii) The type of alternative fuel to be used by the vehicle;

(iv) The incremental cost of the alternative fuel system;

(v) The anticipated delivery date of the vehicle;

(vi) The estimated annual fuel use of the vehicle in ((~~its~~)) the anticipated duties;

(vii) The gross weight of ((~~the~~)) each vehicle;

(viii) For leased vehicles, a copy of the lease contract that includes the gross capitalized cost, residual value, and name of the lessee; and

(ix) Any other information deemed necessary by the department to support administration or reporting of the program.

(b) Within fifteen days of notice of credit availability from the department, provide notice of intent to claim the credit including:

(i) A copy of the order for the vehicle, including the total cost for the vehicle;

(ii) The anticipated delivery date of the vehicle, which must be within one ((~~hundred twenty days~~)) year of acceptance of the credit; and

(iii) Any other information deemed necessary by the department to support administration or reporting of the program.

(c) Provide final documentation within fifteen days of receipt of the vehicle, including:

(i) A copy of the final invoice for the vehicle;

(ii) A copy of the factory build sheet or equivalent documentation;

(iii) The vehicle identification number of ((~~the~~)) each vehicle;

(iv) The incremental cost of the alternative fuel system;

(v) Attestations signed by both the seller and purchaser of the vehicle attesting that the incremental cost of the alternative fuel system includes only the costs necessary for the vehicle to run on alternative fuel and no other vehicle options, equipment, or costs; and

(vi) Any other information deemed necessary by the department to support administration or reporting of the program.

(9) A person applying for credit under subsection (8) of this section may apply for multiple vehicles on the same application, but the application must include the required information for each vehicle included in the application.

(10) To administer the credits, the department must, at a minimum:

(a) Provide notification on its web site monthly of the amount of credits that have been applied for, claimed, and the amount remaining before the statewide annual limit is reached;

(b) Within fifteen days of receipt of the application, notify persons applying of the availability of tax credits in the year in which the vehicles applied for are anticipated to be delivered;

(c) Within fifteen days of receipt of the notice of intent to claim the tax credit, notify the applicant of the approval, denial, or missing information in their notice; and

(d) Within fifteen days of receipt of final documentation, review the documentation and notify the person applying of the acceptance of their final documentation.

((~~(10)~~)) (11) If a person fails to supply the information as required in subsection (8) of this section, the department must deny the application.

((~~(11)~~)) (12)(a) Taxpayers are only eligible for a credit under this section based on:

(i) Sales or leases of new commercial vehicles and qualifying used commercial vehicles with propulsion units that are principally powered by a clean alternative fuel; or

(ii) Costs to modify a commercial vehicle, including sales of tangible personal property incorporated into the vehicle and labor or service expenses incurred in modifying the vehicle, to be principally powered by a clean alternative fuel.

(b) A credit is earned when ((~~qualifying purchases are made~~)) the purchaser or the lessee takes receipt of the qualifying commercial vehicle or the conversion is complete.

((~~(12)~~)) (13) The definitions in RCW 82.04.4496 apply to this section.

((~~(13)~~)) (14) A credit earned during one calendar year may be carried over to be credited against taxes incurred in the subsequent calendar year, but may not be carried over a second year.

((~~(14)~~)) (15)(a) Beginning November 25, 2015, and on the 25th of February, May, August, and November of each year thereafter, the department must notify the state treasurer of the amount of credits taken under this section as reported on returns filed with the department during the preceding calendar quarter ending on the last day of December, March, June, and September, respectively.

(b) On the last day of March, June, September, and December of each year, the state treasurer, based upon information provided by the department, must transfer a sum equal to the dollar amount of the credit provided under this section from the multimodal transportation account to the general fund.

((~~(15)~~)) (16) Credits may be earned under this section from January 1, 2016, through January 1, 2021, except for credits for leased vehicles, which may be earned from July 1, 2016, through January 1, 2021.

((~~(16)~~)) (17) Credits earned under this section may not be used after January 1, 2022.

(18) This section expires January 1, 2022.

**Sec.**  2016 c 29 s 3 (uncodified) is amended to read as follows:

(1) This section and sections 411 and 412 of this act may be known and cited as the clean fuel vehicle incentives act.

(2) The legislature finds that cleaner fuels reduce greenhouse gas emissions in the transportation sector and lead to a more sustainable environment. The legislature further finds that alternative fuel vehicles cost more than comparable models of conventional fuel vehicles, particularly in the commercial market. The legislature further finds the higher cost of alternative fuel vehicles incentivize companies to purchase comparable models of conventional fuel vehicles. The legislature further finds that other states provide various tax credits and exemptions. The legislature further finds incentivizing businesses to purchase cleaner, alternative fuel vehicles is a collaborative step toward meeting the state's climate and environmental goals.

(3)(a) This subsection is the tax preference performance statement for the clean alternative fuel vehicle tax credits provided in ((~~RCW 82.04.4496 and 82.16.0496~~)) section 1, chapter . . . , Laws of 2017 (section 1 of this act), sections 1 and 2, chapter 29, Laws of 2016, and sections 411 and 412, chapter 44, Laws of 2015 3rd sp. sess. The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(b) The legislature categorizes the tax preference as one intended to induce certain designated behavior by taxpayers.

(c) It is the legislature's specific public policy objective to provide a credit against business and occupation and public utility taxes to increase sales of commercial vehicles that use clean alternative fuel to ten percent of commercial vehicle sales by 2021.

(d) To measure the effectiveness of the credit provided in ((~~this act~~)) section 1, chapter . . ., Laws of 2017 (section 1 of this act), sections 1 and 2, chapter 29, Laws of 2016, and sections 411 and 412, chapter 44, Laws of 2015 3rd sp. sess. in achieving the specific public policy objective described in (c) of this subsection, the joint legislative audit and review committee must, at minimum, evaluate the changes in the number of commercial vehicles that are powered by clean alternative fuel that are registered in Washington state.

(e)(i) The department of licensing must provide data needed for the joint legislative audit and review committee's analysis in (d) of this subsection.

(ii) In addition to the data source described under (e)(i) of this subsection, the joint legislative audit and review committee may use any other data it deems necessary in performing the evaluation under (d) of this subsection.

NEW SECTION. **Sec.**  This act takes effect January 1, 2018.

**--- END ---**