

**AMENDMENTS RELATING TO CLEAN FUELS  
AND VEHICLES USING CLEAN FUELS**

2005 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Fred R. Hunsaker**

Senate Sponsor: Peter C. Knudson

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**LONG TITLE**

**General Description:**

This bill modifies the Traffic Code chapter, the Corporate Franchise and Income Tax chapter, the Individual Income Tax Act, the Special Fuel part, the Clean Fuels Conversion Program Act, and the Repeal Dates part relating to clean fuels and vehicles using clean fuels.

**Highlighted Provisions:**

This bill:

- ▶ provides the circumstances under which a vehicle may travel in lanes designated for the use of high occupancy vehicles regardless of the number of occupants;
- ▶ grants rulemaking authority to the Department of Transportation;
- ▶ extends for a period of five taxable years certain individual income tax and corporate franchise and income tax credits relating to vehicles using clean fuels;
  - ▶ for taxable years beginning on or after January 1, 2006, provides that a taxpayer may not claim a tax credit with respect to an electric-hybrid vehicle;
  - ▶ extends until December 31, 2010, a surcharge on clean special fuel tax certificates;
  - ▶ provides that the Department of Natural Resources may not make a loan or grant under the Clean Fuels Conversion Program Act with respect to an electric-hybrid vehicle;
  - ▶ extends a repeal date until December 31, 2010, for allowing certain vehicles to travel in lanes designated for the use of high occupancy vehicles regardless of the number of occupants; and

- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides an effective date.

**Utah Code Sections Affected:**

AMENDS:

**41-6a-702**, as renumbered and amended by Chapter 2, Laws of Utah 2005

**59-7-605**, as last amended by Chapter 90, Laws of Utah 2004

**59-10-127**, as last amended by Chapter 90, Laws of Utah 2004

**59-13-304**, as last amended by Chapter 7, Laws of Utah 2003

**63-34-202**, as enacted by Chapter 231, Laws of Utah 2002

**63-34-203**, as enacted by Chapter 231, Laws of Utah 2002

**63-55-241**, as last amended by Chapter 90, Laws of Utah 2004

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **41-6a-702** is amended to read:

**41-6a-702. Left lane restrictions -- Exceptions -- Other lane restrictions -- Penalties.**

(1) As used in this section and Section 41-6a-704, "general purpose lane" means a highway lane open to vehicular traffic but does not include a designated:

- (a) high occupancy vehicle (HOV) lane; or
- (b) auxiliary lane that begins as a freeway on-ramp and ends as part of the next freeway off-ramp.

(2) On a freeway or section of a freeway which has three or more general purpose lanes in the same direction, a person may not operate a vehicle in the left most general purpose lane if the person's:

- (a) vehicle is drawing a trailer or semitrailer regardless of size; or
- (b) vehicle or combination of vehicles has a gross vehicle weight of 12,001 or more

pounds.

(3) Subsection (2) does not apply to a person operating a vehicle who is:

(a) preparing to turn left or taking a different highway split or an exit on the left;

(b) responding to emergency conditions;

(c) avoiding actual or potential traffic moving onto the highway from an acceleration or merging lane; or

(d) following direction signs that direct use of a designated lane.

(4) (a) A highway authority may designate a specific lane or lanes of travel for any type of vehicle on a highway or portion of a highway under its jurisdiction for the:

(i) safety of the public;

(ii) efficient maintenance of a highway; or

(iii) use of high occupancy vehicles.

(b) The lane designation under Subsection (4)(a) is effective when appropriate signs giving notice are erected on the highway or portion of the highway.

(5) (a) ~~[The]~~ Subject to Subsection (5)(b), the lane designation under Subsection (4)(a) shall allow a vehicle with clean fuel special group license plates issued in accordance with Section 41-1a-418 to travel in lanes designated for the use of high occupancy vehicles regardless of the number of occupants to the extent authorized or permitted by federal law or federal regulation.

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the Department of Transportation may make rules to allow a vehicle with clean fuel special group license plates issued in accordance with Section 41-1a-418 to travel in lanes designated for the use of high occupancy vehicles regardless of the number of occupants to the extent authorized or permitted by federal law or federal regulation.

(6) A person who operates a vehicle in violation of Subsection (2) or in violation of the restrictions made under Subsection (4) is guilty of a class C misdemeanor.

Section 2. Section **59-7-605** is amended to read:

**59-7-605. Definitions -- Tax credit -- Cleaner burning fuels.**

(1) As used in this section:

(a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(b) "Certified by the board" means that:

(i) a motor vehicle on which conversion equipment has been installed meets the following criteria:

(A) before the installation of conversion equipment, the vehicle does not exceed the emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51, Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle;

(B) the motor vehicle's emissions of regulated pollutants, when operating on ~~fuels~~ a fuel listed in Subsection (2)~~(b)~~(a)(ii)(A) or (2)(a)(ii)(B), is less than the emissions were before the installation of conversion equipment; and

(C) a reduction in emissions under Subsection (1)(b)(i)(B) is demonstrated by:

(I) certification of the conversion equipment by the federal Environmental Protection Agency or by a state whose certification standards are recognized by the board;

(II) testing the motor vehicle, before and after installation of the conversion equipment, in accordance with 40 C.F.R. Part 86, Control of Emissions from New and In-use Highway Vehicles and Engines, using all fuel the motor vehicle is capable of using; or

(III) any other test or standard recognized by board rule; or

(ii) special mobile equipment on which conversion equipment has been installed meets the following criteria:

(A) the special mobile equipment's emissions of regulated pollutants, when operating on fuels listed in Subsection (2)~~(c)~~(a)(iii)(A) or (2)(a)(iii)(B), is less than the emissions were before the installation of conversion equipment; and

(B) a reduction in emissions under Subsection (1)(b)(ii)(A) is demonstrated by:

(I) certification of the conversion equipment by the federal Environmental Protection Agency or by a state whose certification standards are recognized by the board; or

(II) any other test or standard recognized by board rule.

(c) "Clean fuel grant" means a grant awarded under Title 63, Chapter 34, Part 2, Clean Fuels Conversion Program Act, for reimbursement of a portion of the incremental cost of an OEM vehicle or the cost of conversion equipment.

(d) "Conversion equipment" means equipment referred to in Subsection (2)~~(b)~~(a)(ii) or ~~(2)(c)~~(a)(iii).

(e) "Electric-hybrid vehicle" is as defined in 42 U.S.C. Sec. 13435.

~~(f)~~ (f) "Incremental cost" has the same meaning as in Section 63-34-202.

~~(g)~~ (g) "OEM vehicle" has the same meaning as in Section 63-34-202.

~~(h)~~ (h) "Special mobile equipment":

(i) means any mobile equipment or vehicle that is not designed or used primarily for the transportation of persons or property; and

(ii) includes construction or maintenance equipment.

(2) ~~For~~ (a) Except as provided in Subsection (2)(b), for taxable years beginning on or after January 1, 2001, but beginning on or before December 31, ~~[2005]~~ 2010, a taxpayer may claim a tax credit against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in an amount equal to:

~~(a)~~ (i) 50% of the incremental cost of an OEM vehicle registered in Utah minus the amount of any clean fuel grant received, up to a maximum tax credit of \$3,000 per vehicle, if the vehicle:

~~(i)~~ (A) is fueled by propane, natural gas, or electricity;

~~(ii)~~ (B) is fueled by other fuel the board determines annually on or before July 1 to be at least as effective in reducing air pollution as fuels under Subsection (2)(a)(i)(A); or

~~(iii)~~ (C) meets the clean-fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.;

~~(b)~~ (ii) 50% of the cost of equipment for conversion, if certified by the board, of a motor vehicle registered in Utah minus the amount of any clean fuel grant received, up to a maximum tax credit of \$2,500 per motor vehicle, if the motor vehicle is to:

~~[(i)]~~ (A) be fueled by propane, natural gas, or electricity;

~~[(ii)]~~ (B) be fueled by other fuel the board determines annually on or before July 1 to be at least as effective in reducing air pollution as fuels under Subsection (2)~~[(b)(i)]~~(a)(ii)(A); or

~~[(iii)]~~ (C) meet the federal clean-fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.; and

~~[(e)]~~ (iii) 50% of the cost of equipment for conversion, if certified by the board, of a special mobile equipment engine minus the amount of any clean fuel grant received, up to a maximum tax credit of \$1,000 per special mobile equipment engine, if the special mobile equipment is to be fueled by:

~~[(i)]~~ (A) propane, natural gas, or electricity; or

~~[(ii)]~~ (B) other fuel the board determines annually on or before July 1 to be:

~~[(A)]~~ (I) at least as effective in reducing air pollution as the fuels under Subsection (2)~~[(e)(i)]~~(a)(iii)(A); or

~~[(B)]~~ (II) substantially more effective in reducing air pollution than the fuel for which the engine was originally designed.

(b) Notwithstanding Subsection (2)(a), for taxable years beginning on or after January 1, 2006, a taxpayer may not claim a tax credit under this section with respect to an electric-hybrid vehicle.

(3) A taxpayer shall provide proof of the purchase of an item for which a tax credit is allowed under this section by:

(a) providing proof to the board in the form the board requires by rule;

(b) receiving a written statement from the board acknowledging receipt of the proof; and

(c) retaining the written statement described in Subsection (3)(b).

(4) Except as provided by Subsection (5), the tax credit under this section is allowed only:

(a) against any Utah tax owed in the taxable year by the taxpayer;

(b) in the taxable year in which the item is purchased for which the tax credit is claimed;

and

(c) once per vehicle.

(5) If the amount of a tax credit claimed by a taxpayer under this section exceeds the taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

Section 3. Section **59-10-127** is amended to read:

**59-10-127. Definitions -- Tax credit -- Cleaner burning fuels.**

(1) As used in this section:

(a) "Board" means the Air Quality Board created in Title 19, Chapter 2, Air Conservation Act.

(b) "Certified by the board" means that:

(i) a motor vehicle on which conversion equipment has been installed meets the following criteria:

(A) before the installation of conversion equipment, the vehicle does not exceed the emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51, Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle;

(B) the motor vehicle's emissions of regulated pollutants, when operating on fuels listed in Subsection (2)~~(b)~~(a)(ii)(A) or (2)(a)(ii)(B), is less than the emissions were before the installation of conversion equipment; and

(C) a reduction in emissions under Subsection (1)(b)(i)(B) is demonstrated by:

(I) certification of the conversion equipment by the federal Environmental Protection Agency or by a state whose certification standards are recognized by the board;

(II) testing the motor vehicle, before and after installation of the conversion equipment, in accordance with 40 C.F.R. Part 86, Control Emissions from New and In-use Highway Vehicles and Engines, using all fuels the motor vehicle is capable of using; or

(III) any other test or standard recognized by board rule; or

(ii) special mobile equipment on which conversion equipment has been installed meets the following criteria:

(A) the special mobile equipment's emissions of regulated pollutants, when operating on fuels listed in Subsection (2)~~(c)~~(a)(iii)(A) or (2)(a)(iii)(B), is less than the emissions were before the installation of conversion equipment; and

(B) a reduction in emissions under Subsection (1)(b)(ii)(A) is demonstrated by:

(I) certification of the conversion equipment by the federal Environmental Protection Agency or by a state whose certification standards are recognized by the board; or

(II) any other test or standard recognized by the board.

(c) "Clean fuel grant" means a grant the taxpayer receives under Title 63, Chapter 34, Part 2, Clean Fuels Conversion Program Act, for reimbursement of a portion of the incremental cost of the OEM vehicle or the cost of conversion equipment.

(d) "Conversion equipment" means equipment referred to in Subsection (2)~~(b)~~(a)(ii) or (2)~~(c)~~(a)(iii).

(e) "Electric-hybrid vehicle" is as defined in 42 U.S.C. Sec. 13435.

~~(c)~~ (f) "Incremental cost" has the same meaning as in Section 63-34-202.

~~(f)~~ (g) "OEM vehicle" has the same meaning as in Section 63-34-202.

~~(g)~~ (h) "Special mobile equipment":

(i) means any mobile equipment or vehicle not designed or used primarily for the transportation of persons or property; and

(ii) includes construction or maintenance equipment.

(2) ~~For~~ (a) Except as provided in Subsection (2)(b), for taxable years beginning on or after January 1, 2001, but beginning on or before December 31, ~~2005~~ 2010, a taxpayer may claim a tax credit against tax otherwise due under this chapter in an amount equal to:

~~(a)~~ (i) 50% of the incremental cost of an OEM vehicle registered in Utah minus the amount of any clean fuel grant received, up to a maximum tax credit of \$3,000 per vehicle, if the vehicle:

~~(i)~~ (A) is fueled by propane, natural gas, or electricity;

~~(i)~~ (B) is fueled by other fuel the board determines annually on or before July 1 to be at least as effective in reducing air pollution as fuels under Subsection (2)(a)(i)(A); or

~~[(iii)]~~ (C) meets the clean-fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.;

~~[(b)]~~ (ii) 50% of the cost of equipment for conversion, if certified by the board, of a motor vehicle registered in Utah minus the amount of any clean fuel conversion grant received, up to a maximum tax credit of \$2,500 per vehicle, if the motor vehicle:

~~[(i)]~~ (A) is to be fueled by propane, natural gas, or electricity;

~~[(i)]~~ (B) is to be fueled by other fuel the board determines annually on or before July 1 to be at least as effective in reducing air pollution as fuels under Subsection (2)~~[(b)]~~~~[(i)]~~(a)(ii)(A); or

~~[(iii)]~~ (C) will meet the federal clean fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.; and

~~[(c)]~~ (iii) 50% of the cost of equipment for conversion, if certified by the board, of a special mobile equipment engine minus the amount of any clean fuel conversion grant received, up to a maximum tax credit of \$1,000 per special mobile equipment engine, if the special mobile equipment is to be fueled by:

~~[(i)]~~ (A) propane, natural gas, or electricity; or

~~[(i)]~~ (B) other fuel the board determines annually on or before July 1 to be:

~~[(A)]~~ (I) at least as effective in reducing air pollution as the fuels under Subsection (2)~~[(c)]~~~~[(i)]~~(a)(iii)(A); or

~~[(B)]~~ (II) substantially more effective in reducing air pollution than the fuel for which the engine was originally designed.

(b) Notwithstanding Subsection (2)(a), for taxable years beginning on or after January 1, 2006, a taxpayer may not claim a tax credit under this section with respect to an electric-hybrid vehicle.

(3) An individual shall provide proof of the purchase of an item for which a tax credit is allowed under this section by:

(a) providing proof to the board in the form the board requires by rule;

(b) receiving a written statement from the board acknowledging receipt of the proof; and

(c) retaining the written statement described in Subsection (3)(b).

(4) Except as provided by Subsection (5), the tax credit under this section is allowed only:

- (a) against any Utah tax owed in the taxable year by the taxpayer;
- (b) in the taxable year in which the item is purchased for which the tax credit is claimed;

and

- (c) once per vehicle.

(5) If the amount of a tax credit claimed by a taxpayer under this section exceeds the taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

Section 4. Section **59-13-304** is amended to read:

**59-13-304. Exemptions from Special Fuel Tax -- Clean Special Fuel Tax -- Certificate required -- Fees for certificates -- Inspection of vehicles -- Exemptions.**

(1) (a) Except as provided in Subsection (4), a user of special fuel who owns a vehicle powered by a clean special fuel as defined under Section 59-13-102 shall pay a clean special fuel tax as provided under this section for use of clean special fuel.

(b) A user of special fuel who qualifies for the clean special fuel tax shall annually purchase from the commission a clean special fuel tax certificate for each vehicle owned or leased that is powered by a clean special fuel.

(c) Clean special fuel tax certificates are provided to encourage the use of clean fuels to reduce air pollution.

(2) (a) The fee for a clean special fuel tax certificate is:

(i) 70/.19 of the tax per gallon imposed under Subsection 59-13-201(1)(a), rounded up to the nearest dollar, for qualified motor vehicles as defined under Section 59-13-102; and

(ii) 36/.19 of the tax per gallon imposed under Subsection 59-13-201(1)(a), rounded up to the nearest dollar, for other vehicles.

(b) The commission may require each vehicle to be inspected for safe operation before issuing the certificate.

(c) Each vehicle shall be equipped with an approved and properly installed carburetion system if it is powered by a fuel that is gaseous at standard atmospheric conditions.

(3) (a) Beginning January 1, 2001 through December 31, [~~2005~~] 2010, there is imposed a surcharge of \$35 on each clean special fuel tax certificate issued under this section.

(b) Surcharges imposed under Subsection (3)(a) shall be deposited into the Centennial Highway Fund created under Section 72-2-118.

(4) A governmental entity identified in Subsection 59-13-301(9) that owns or leases a vehicle powered by a special fuel that qualifies as a clean special fuel is exempt from the clean special fuel tax imposed under this section.

Section 5. Section ~~63-34-202~~ is amended to read:

**63-34-202. Definitions.**

As used in this part:

(1) "Certified by the Air Quality Board" means that a motor vehicle on which conversion equipment has been installed meets the following criteria:

(a) before the installation of conversion equipment, the motor vehicle does not exceed the emission cut points for a transient test driving cycle, as specified in 40 CFR 51, Appendix E to Subpart S, or an equivalent test for the make, model, and year of the motor vehicle;

(b) the motor vehicle's emissions of regulated pollutants, when operating with clean fuel, is less than the emissions were before the installation of conversion equipment; and

(c) a reduction in emissions under Subsection (1)(b) is demonstrated by:

(i) certification of the conversion equipment by the federal Environmental Protection Agency or by a state whose certification standards are recognized by the Air Quality Board;

(ii) testing the motor vehicle, before and after the installation of the conversion equipment, in accordance with 40 CFR 86, Control of Air Pollution from New and In-use Motor Vehicle Engines: Certification and Test Procedures, using all fuel the motor vehicle is capable of using; or

(iii) any other test or standard recognized by Air Quality Board rule.

(2) "Clean fuel" means:

- (a) propane, compressed natural gas, or electricity;
  - (b) other fuel the Air Quality Board determines to be at least as effective as fuels under Subsection (2)(a) in reducing air pollution; or
  - (c) other fuel that meets the clean-fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.
- (3) "Clean-fuel vehicle" means a vehicle that:
- (a) uses a clean fuel; and
  - (b) meets clean-fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.

(4) "Electric-hybrid vehicle" is as defined in 42 U.S.C. Sec. 13435.

~~[(4)]~~ (5) "Fund" means the Clean Fuels Vehicle Fund created in Section 63-34-203.

~~[(5)]~~ (6) "Government vehicle" means a motor vehicle registered in Utah and owned and operated by the state, a public trust authority, a school district, a county, a municipality, a town, or a city, including a metropolitan rapid transit motor vehicle, bus, truck, law enforcement vehicle, or emergency vehicle.

~~[(6)]~~ (7) "Incremental cost" means the difference between the cost of the OEM vehicle and the same vehicle model manufactured without the clean-fuel fueling system.

~~[(7)]~~ (8) "OEM vehicle" means a vehicle manufactured by the original vehicle manufacturer or its contractor to use a clean fuel.

~~[(8)]~~ (9) "Private sector business vehicle" means a motor vehicle registered in Utah that is owned and operated solely in the conduct of a private business enterprise.

~~[(9)]~~ (10) "Refueling equipment" means compressors when used separately, compressors used in combination with cascade tanks, and other equipment that constitute a central refueling system capable of dispensing vehicle fuel.

Section 6. Section **63-34-203** is amended to read:

**63-34-203. Clean Fuels Vehicle Fund -- Contents -- Loans or grants made with fund monies.**

(1) (a) There is created a revolving fund known as the Clean Fuels Vehicle Fund.

(b) The fund consists of:

(i) appropriations to the fund;

(ii) other public and private contributions made under Subsection (1)(d);

(iii) interest earnings on cash balances; and

(iv) all monies collected for loan repayments and interest on loans.

(c) All money appropriated to the fund is nonlapsing.

(d) The department may accept contributions from other public and private sources for deposit into the fund.

(2) (a) [~~The~~] Except as provided in Subsection (3), the department may make loans or grants with monies available in the fund for:

(i) the conversion of private sector business vehicles and government vehicles to use a clean fuel, if certified by the Air Quality Board; or

(ii) the purchase of OEM vehicles for use as private sector business vehicles or government vehicles.

(b) The amount of a loan for any vehicle may not exceed:

(i) the actual cost of the vehicle conversion;

(ii) the incremental cost of purchasing the OEM vehicle; or

(iii) the cost of purchasing the OEM vehicle if there is no documented incremental cost.

(c) The amount of a grant for any vehicle may not exceed:

(i) 50% of the actual cost of the vehicle conversion minus the amount of any tax credit claimed under Section 59-7-605 or 59-10-127 for the vehicle for which a grant is requested; or

(ii) 50% of the incremental cost of purchasing an OEM vehicle minus the amount of any tax credit claimed under Section 59-7-605 or 59-10-127 for the vehicle for which a grant is requested.

(d) (i) [~~Subject~~] Except as provided in Subsection (3) and subject to the availability of monies in the fund, the department may make loans for the purchase of vehicle refueling equipment for private sector business vehicles and government vehicles.

(ii) The maximum amount loaned per installation of refueling equipment may not exceed

the actual cost of the refueling equipment.

(3) Notwithstanding Subsection (2)(a) or (2)(d), the department may not make a loan or grant under this part with respect to an electric-hybrid vehicle.

~~[(3)]~~ (4) Administrative costs of the fund shall be paid from the fund.

~~[(4)]~~ (5) (a) The fund balance may not exceed \$10,000,000.

(b) Interest on cash balances and repayment of loans in excess of the amount necessary to maintain the fund balance at \$10,000,000 shall be deposited in the General Fund.

~~[(5)]~~ (6) (a) Loans made from monies in the fund shall be supported by loan documents evidencing the intent of the borrower to repay the loan.

(b) The original loan documents shall be filed with the Division of Finance and a copy shall be filed with the department.

Section 7. Section **63-55-241** is amended to read:

**63-55-241. Repeal dates, Title 41.**

The following provisions of Title 41 are repealed on the following dates:

(1) Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program, is repealed July 1, 2010.

(2) The HOV lane exception [~~for clean fuel special group license plate vehicles~~] in Subsection [~~41-6-53.5~~] 41-6a-702(5) is repealed December 31, [~~2005~~] 2010.

Section 8. **Effective date.**

(1) Except as provided in Subsections (2) and (3), this bill takes effect on May 2, 2005.

(2) Notwithstanding Subsection (1), the amendments to Section 41-6a-702 take effect on July 1, 2005.

(3) Notwithstanding Subsection (1), the amendments to Sections 59-7-605 and 59-10-127 take effect for taxable years beginning on or after January 1, 2006.