

This document has been prepared as part of the implementation project of Legal Pathways to Deep Decarbonization (Michael B. Gerrard and John C. Dernbach, eds. Environmental Law Institute [2019]) (LPDD). For background information on the project, see <https://lpdd.org>

MODEL STATE STATUTE PROVIDING REBATES FOR HYDROGEN FUEL CELL VEHICLES AND HYDROGEN FUELING STATIONS

AN ACT concerning Hydrogen Fuel Cell Vehicle and Infrastructure Rebates.

BE IT ENACTED *by the Senate and General Assembly of the State of --:*

1. The Legislature finds and declares: that Hydrogen Fuel Cell technology has improved significantly for vehicles of all types; that increased use of Hydrogen Fuel Cell Vehicles can contribute significantly to the attainment of existing State air pollution and energy goals, including the increased use of low emission vehicles and zero emission vehicles; that Hydrogen Fuel Cell Vehicles, like internal combustion engine vehicles, can be fully refueled in three to five minutes; that a Hydrogen Fuel Cell Vehicle's range exceeds 300 miles and does not degrade in extreme temperatures, such that Hydrogen Fuel Cell Vehicles may be better suited than Battery Electric Vehicles to extreme environments and long distance travel. The Legislature therefore determines that it is in the public interest to support the increased use of Hydrogen Fuel Cell Vehicles by providing incentives for the purchase or lease of such vehicles and for the development of a network of public hydrogen fueling stations, and to increase consumer awareness of the availability of incentives through a Statewide public education program.

2. Definitions:

"Corridor location" means a location for a hydrogen fueling station along a travel corridor roadway, or within three miles of that roadway, which is intended to provide hydrogen fueling services to the public.

"Department" means the Department of Environmental Protection [*or Transportation, or Energy*].

"Eligible vehicle" means a new light duty Hydrogen Fuel Cell Vehicle, with an MSRP of below \$60,000, purchased or leased after the effective date of this act and registered in this State.

"Hydrogen Fuel Cell Vehicle" means a light duty vehicle that uses hydrogen fuel for motive power.

"Light duty vehicle" means any two-axle, four-wheel vehicle, designed primarily for passenger travel or light duty commercial use, and approved for travel on public roads. "Light duty vehicle" includes, but is not limited to, any vehicle commonly referred to as a car, minivan, sport utility vehicle, cross-over, or pick-up truck.

"MSRP" means the published manufacturer's suggested retail price, as set by a vehicle's manufacturer, at the time of sale or lease.

"Seller or lessor of an eligible vehicle" means an entity that is licensed to sell or lease an eligible vehicle to a consumer or fleet owner in the State.

"Travel corridor" means heavily used public roads in the State, as designated by the Department, which shall include, but need not be limited to, federal interstate highways, and the subset of federal or State

roads which collectively support: (i) the majority of long distance travel through and within the State; and (ii) the majority of daily travel by local drivers.

3. (a) No later than 180 days after the effective date of this bill, the Department shall establish and implement a light duty Hydrogen Fuel Cell Vehicle incentive program for the purpose of encouraging the purchase or lease of new light duty Hydrogen Fuel Cell Vehicles in the State.

(b) The Department shall implement the light duty Hydrogen Fuel Cell Vehicle incentive program until June 30th of the 10th year after establishment of the incentive program for the purchase or lease of light duty Hydrogen Fuel Cell Vehicles.

(c) (1) Any incentive offered pursuant to this section shall take the form of a one-time payment to the purchaser or lessee of an eligible vehicle.

(2) Until December 31, 2025, the amount of the incentive shall be [*insert amount*] per eligible vehicle. For each year after December 31 2025 that an incentive is offered, the Department may, after consideration of stakeholder input, change the amount of the incentive and the manner in which an incentive is calculated, provided that no incentive shall exceed [*insert amount*] per eligible vehicle. The Department shall publish the amount of any incentives on its Internet website.

(3) The Department may limit the number of Hydrogen Fuel Cell Vehicle incentives that it issues to a single person, agency, company, corporation, association or other entity.

(4) The Department may establish other requirements and parameters for the incentive program as it deems necessary and reasonable to further the goals of this bill.

(d) The Department shall monitor the disbursement of incentives under the incentive program, and may reassess the design and implementation of the incentive program in its discretion. Provided the Department's action is consistent with the provisions of subsection c. of this section, the Department may revise the incentive program, any aspect of the incentives, or the related implementation procedures or processes.

4. (a) The seller or lessor of an eligible vehicle shall offer the light duty Hydrogen Fuel Cell Vehicle incentive established pursuant to this section in conjunction with, and in addition to, any other incentive offered by the seller or lessor of an eligible vehicle.

(b) A seller or lessor of an eligible vehicle shall provide a purchaser or lessee the option to have the amount of the light duty Hydrogen Fuel Cell Vehicle incentive deducted from the final negotiated and agreed upon sale or lease price of the eligible vehicle, in which case the full amount of the incentive shall be passed through to the purchaser or lessee and payment thereof shall be effective immediately at the time of the final sale or lease and transfer of the eligible vehicle to the purchaser or lessee. The Department shall establish a process for reimbursing a seller or lessor of an eligible vehicle the cost of an incentive provided by the seller or lessor pursuant to this subsection.

(c) The Department shall require each seller or lessor of an eligible vehicle to provide to the Department, upon the final sale or lease and transfer of an eligible vehicle to a purchaser or lessee, the eligible vehicle's make, model, and any other information as the Department deems relevant.

(d) The Department shall determine the form and manner of the application for, and the disbursement of, incentives pursuant to this section.

5. (a) No later than 180 days after the effective date of this bill, the Department shall establish and implement a program to provide incentives for the development of a public network of Hydrogen Fuel Cell Vehicle fueling stations.

(b) Until December 31, 2025 and subject to available funding, the amount of the incentive shall be [*insert amount*] per public Hydrogen Fuel Cell Vehicle fueling station. For each year after December 31, 2025 that an incentive is offered, the Department may, after consideration of stakeholder input, change the amount of the incentive and the manner in which an incentive is calculated, provided that no incentive shall exceed [*insert amount*] per Hydrogen Fuel Cell Vehicle fueling station. The Department shall publish the amount of any incentives on its Internet website. The Department shall give priority to stations that are sited in a Corridor location. The Department shall monitor the disbursement of incentives for the development of a public network of Hydrogen Fuel Cell Vehicle fueling stations, and may reassess the design and implementation of the incentive program under this section in its discretion. Provided the Department's action is consistent with the provisions of this subsection b., the Department may:

(1) revise the incentive program, any aspect of the incentives, or the related implementation procedures or processes; and

(2) develop additional incentives for Hydrogen Fuel Cell Vehicle fueling stations consistent with the goals of this bill, in order to ensure the efficient and equitable siting of Hydrogen Fuel Cell vehicle fueling stations in the State.

(c) The Department shall determine the form and manner of the application for, and the disbursement of, incentives pursuant to this section.

6. (a) There is established in the Department a special, non-lapsing fund to be known as the Hydrogen Fuel Cell Vehicle and Refueling Station Incentive Fund. The fund shall be administered by the Department and shall be credited with:

(1) moneys deposited into the fund by the Department pursuant to subsection b. of this section;

(2) moneys that are appropriated by the Legislature; and

(3) any return on investment of moneys deposited in the fund.

(b) The State shall deposit into the Hydrogen Fuel Cell Vehicle and Refueling Station Incentive Fund, each year, an amount equivalent to at least four percent (4%) of the Motor Fuels Tax [*or other gasoline excise tax*].

(c) Moneys in the Hydrogen Fuel Cell Vehicle and Refueling Station Incentive Fund shall be used by the Department solely for the purpose of disbursing the incentives established pursuant to sections 3 and 5 of this act. The Department shall recover any administrative costs incurred in connection with this act separately from moneys received into the fund.

(d) The Department shall provide in disbursements under the light duty Hydrogen Fuel Cell Vehicle and Refueling Station Incentive Fund, each year for 10 years, an amount equivalent to at least four percent (4%) of the Motor Fuels Tax [*or other gasoline excise tax*], collected by the Division of Taxation in the prior year to finance the incentives for light duty hydrogen fuel cell vehicles and the incentives for the construction of hydrogen refueling stations, established pursuant to this section.

7. The Department shall develop a website accessible by the public that provides up-to-date information about the availability of the incentives established pursuant to sections 3 and 5 of this act.

8. No later than 180 days after the effective date of this act, the Department, after consideration of stakeholder input, shall develop and implement a public education program to educate consumers about the benefits of Hydrogen Fuel Cell Vehicles and the availability of incentives established pursuant to sections 3 and 5 of this act.

9. The Department may adopt, pursuant to the State Administrative Procedure Act, rules and regulations necessary for the implementation of this act.

10. This act shall take effect immediately.