

CHAPTER 417

TAXATION

HOUSE BILL 09-1298

BY REPRESENTATIVE(S) McFadyen and Gardner C., Liston, Rice, Solano, Baumgardner, Casso, Ferrandino, Kefalas, Pommer, Priola, Vigil, Green, Kerr J., Nikkel, Stephens;
also SENATOR(S) Mitchell, Heath, Scheffel, Schwartz, Brophy, Gibbs, Hudak, Kester, King K., Kopp, Newell, Penry, Tapia, Tochtrop, White.

AN ACT

**CONCERNING ECONOMIC DEVELOPMENT FOR THE TRUCKING INDUSTRY IN COLORADO, AND
MAKING AN APPROPRIATION IN CONNECTION THEREWITH.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Part 1 of article 26 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

39-26-113.5. Refund of state sales taxes for vehicles used in interstate commerce. (1) (a) FOR THE CALENDAR YEAR COMMENCING ON JANUARY 1, 2011, AND FOR EACH CALENDAR YEAR THEREAFTER, A TAXPAYER MAY CLAIM A REFUND OF A PERCENTAGE OF ALL STATE SALES AND USE TAXES PAID BY THE TAXPAYER PURSUANT TO THIS PART 1 AND PART 2 OF THIS ARTICLE ON THE SALE, STORAGE, OR USE OF A MODEL YEAR 2010 OR NEWER TRUCK TRACTOR WITH A GROSS VEHICLE WEIGHT RATING OF TWENTY-SIX THOUSAND POUNDS OR GREATER DESIGNATED AS CLASS A PERSONAL PROPERTY AS SPECIFIED IN SECTION 42-3-106 (2) (a), C.R.S.

(b) THE TOTAL REFUND SHALL BE CALCULATED BY THE DIVISION OF MOTOR VEHICLES IN THE DEPARTMENT OF REVENUE IN THE SAME MANNER AS THE DIVISION CALCULATES THE PRORATION OF THE ANNUAL SPECIFIC OWNERSHIP TAX PAYABLE ON CLASS A PERSONAL PROPERTY AS SPECIFIED IN SECTION 42-3-107 (4), C.R.S.

(c) THE TOTAL REFUND SHALL BE CLAIMED AS FOLLOWS:

(I) FOR THE CALENDAR YEAR IN WHICH THE TRUCK TRACTOR WAS PURCHASED, STORED, OR USED, TEN PERCENT OF THE TOTAL AMOUNT OF THE REFUND;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(II) FOR THE FIRST CALENDAR YEAR AFTER THE CALENDAR YEAR IN WHICH THE TRUCK TRACTOR WAS PURCHASED, STORED, OR USED, FIFTEEN PERCENT OF THE TOTAL AMOUNT OF THE REFUND;

(III) FOR THE SECOND CALENDAR YEAR AFTER THE CALENDAR YEAR IN WHICH THE TRUCK TRACTOR WAS PURCHASED, STORED, OR USED, TWENTY-FIVE PERCENT OF THE TOTAL AMOUNT OF THE REFUND;

(IV) FOR THE THIRD CALENDAR YEAR AFTER THE CALENDAR YEAR IN WHICH THE TRUCK TRACTOR WAS PURCHASED, STORED, OR USED, TWENTY-FIVE PERCENT OF THE TOTAL AMOUNT OF THE REFUND; AND

(V) FOR THE FOURTH CALENDAR YEAR AFTER THE CALENDAR YEAR IN WHICH THE TRUCK TRACTOR WAS PURCHASED, STORED, OR USED, TWENTY-FIVE PERCENT OF THE TOTAL AMOUNT OF THE REFUND.

(2) TO CLAIM A REFUND ALLOWED BY SUBSECTION (1) OF THIS SECTION, A TAXPAYER SHALL SUBMIT A REFUND APPLICATION TO THE DEPARTMENT OF REVENUE ON A FORM PROVIDED BY THE DEPARTMENT. THE APPLICATION SHALL BE ACCOMPANIED BY PROOF OF PAYMENT OF STATE SALES AND USE TAXES PAID BY THE TAXPAYER. THE APPLICATION SHALL ALSO INCLUDE ANY ADDITIONAL INFORMATION THAT THE DEPARTMENT OF REVENUE MAY REQUIRE BY RULE.

SECTION 2. 39-30-104 (1), Colorado Revised Statutes, is amended to read:

39-30-104. Credit against tax - investment in certain property - repeal.

(1) (a) In lieu of any credit allowable under section 39-22-507.5, there shall be allowed to any person as a credit against the tax imposed by article 22 of this title, for income tax years commencing on or after January 1, 1986, an amount equal to the total of three percent of the total qualified investment, as determined under section 46 (c) (2) of the federal "Internal Revenue Code of 1986", as amended, in such taxable year in qualified property as defined in section 48 of the internal revenue code to the extent that such investment is in property ~~which~~ THAT is used solely and exclusively in an enterprise zone for at least one year. The references in this subsection (1) to sections 46 (c) (2) and 48 of the internal revenue code mean sections 46 (c) (2) and 48 of the internal revenue code as they existed immediately prior to the enactment of the federal "Revenue Reconciliation Act of 1990".

(b) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2011, BUT BEFORE JANUARY 1, 2016, A COMMERCIAL TRUCK, TRUCK TRACTOR, TRACTOR, OR SEMITRAILER WITH A GROSS VEHICLE WEIGHT RATING OF SIXTEEN THOUSAND POUNDS OR GREATER THAT IS MODEL YEAR 2010 OR NEWER, AS WELL AS ANY PARTS ASSOCIATED WITH THE VEHICLE AT THE TIME OF PURCHASE, SHALL BE DEEMED TO BE USED SOLELY AND EXCLUSIVELY IN AN ENTERPRISE ZONE IF IT IS LICENSED AND REGISTERED WITHIN THE STATE AND PREDOMINANTLY HOUSED AND BASED AT THE TAXPAYER'S BUSINESS TRUCKING FACILITY WITHIN AN ENTERPRISE ZONE FOR THE TWELVE-MONTH PERIOD FOLLOWING ITS PURCHASE.

(II) THE INCOME TAX CREDIT FOR A QUALIFIED INVESTMENT IN A COMMERCIAL TRUCK, TRUCK TRACTOR, TRACTOR, OR SEMITRAILER WITH A GROSS VEHICLE WEIGHT RATING OF SIXTEEN THOUSAND POUNDS OR GREATER THAT IS MODEL YEAR 2010 OR

NEWER, AS WELL AS ANY PARTS ASSOCIATED WITH THE VEHICLE AT THE TIME OF PURCHASE, SHALL BE ALLOWED AS FOLLOWS:

(A) FOR THE INCOME TAX YEAR COMMENCING ON JANUARY 1, 2011, AN AMOUNT EQUAL TO ONE-HALF OF ONE PERCENT OF THE TOTAL QUALIFIED INVESTMENT;

(B) FOR THE INCOME TAX YEAR COMMENCING ON JANUARY 1, 2012, AN AMOUNT EQUAL TO ONE PERCENT OF THE TOTAL QUALIFIED INVESTMENT;

(C) FOR THE INCOME TAX YEAR COMMENCING ON JANUARY 1, 2013, AN AMOUNT EQUAL TO ONE AND ONE-HALF PERCENT OF THE TOTAL QUALIFIED INVESTMENT;

(D) FOR THE INCOME TAX YEAR COMMENCING ON JANUARY 1, 2014, AN AMOUNT EQUAL TO TWO PERCENT OF THE TOTAL QUALIFIED INVESTMENT; AND

(E) FOR THE INCOME TAX YEAR COMMENCING ON JANUARY 1, 2015, AN AMOUNT EQUAL TO THREE PERCENT OF THE TOTAL QUALIFIED INVESTMENT.

(III) FOR PURPOSES OF THIS PARAGRAPH (b), "FACILITY" MEANS ANY FACTORY, MILL, PLANT, REFINERY, WAREHOUSE, FEEDLOT, BUILDING, OR COMPLEX OF BUILDINGS LOCATED WITHIN THE STATE, INCLUDING THE LAND ON WHICH SUCH FACILITY IS LOCATED AND ALL MACHINERY, EQUIPMENT, AND OTHER REAL AND TANGIBLE PERSONAL PROPERTY LOCATED AT OR WITHIN SUCH FACILITY AND USED IN CONNECTION WITH THE OPERATION OF SUCH FACILITY, WHICH FACILITY THE TAXPAYER OWNS, RENTS, OR LEASES IN THE BUSINESS'S NAME AT WHICH CONTINUOUS AND ONGOING OPERATIONAL ACTIVITIES OF THE BUSINESS ARE MAINTAINED AND AT WHICH AT LEAST ONE FULL-TIME EMPLOYEE OF THE BUSINESS IS EMPLOYED.

(IV) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JANUARY 1, 2017.

SECTION 3. Article 1 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 3
GREEN TRUCK GRANT PROGRAM

42-1-301. Short title. THIS PART 3 SHALL BE KNOWN AND MAY BE CITED AS THE "GREEN TRUCK GRANT PROGRAM ACT".

42-1-302. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) IT IS COMMON FOR TRUCK DRIVERS TO RUN THEIR ENGINES TO STAY WARM OR COOL IN THEIR VEHICLES WHILE RESTING AFTER LONG HAULS. THE GENERAL ASSEMBLY FINDS THAT DRIVER COMFORT IS ESSENTIAL TO THE JOB.

(b) LONG-DURATION IDLING IS COSTLY TO THE DRIVER, THE FLEET OWNER, AND THE ENVIRONMENT. SOME SURVEYS SAY THAT TRUCKS IDLE ANYWHERE FROM SIX TO EIGHT HOURS A DAY FOR AS MANY AS THREE HUNDRED DAYS EACH YEAR. DEPENDING ON FUEL PRICES, THIS CAN COST SIX THOUSAND DOLLARS OR MORE PER

YEAR IN FUEL COSTS PER TRUCK.

(c) LONG-DURATION IDLING OF TRUCK ENGINES ANNUALLY CONSUMES OVER ONE BILLION GALLONS OF DIESEL FUEL AND ANNUALLY EMITS ELEVEN MILLION TONS OF CARBON DIOXIDE, TWO HUNDRED THOUSAND TONS OF OXIDES OF NITROGEN, AND FIVE THOUSAND TONS OF PARTICULATE MATTER INTO THE AIR. IDLING CAN INCREASE ENGINE MAINTENANCE COSTS, SHORTEN ENGINE LIFE, ADVERSELY AFFECT DRIVER WELL-BEING, AND CREATE ELEVATED NOISE LEVELS.

(d) ALTERNATIVES TO LONG-DURATION IDLING EXIST AND A GRANT PROGRAM TO HELP TRUCK OWNERS INSTALL SUCH ALTERNATIVES ON THEIR TRUCKS IS IN THE INTEREST OF THE STATE'S ENVIRONMENT; AND

(e) BETTER FUEL ECONOMY AND A CLEANER RIDE WILL GIVE ALL CARRIERS A SIGNIFICANT RETURN ON THEIR INVESTMENT.

(2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

(a) TRUCKS THAT ARE TWENTY YEARS OLD OR OLDER EMIT SOME OF THE HIGHEST LEVELS OF POLLUTANTS INTO THE AIR AND CONSUME MORE DIESEL FUEL; AND

(b) A GRANT PROGRAM TO ENCOURAGE THE RETIREMENT AND SCRAPPING OF OLDER TRUCKS IS IN THE INTEREST OF THE STATE'S ENVIRONMENT.

42-1-303. Definitions. AS USED IN THIS PART 3, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "GOVERNOR'S ENERGY OFFICE" OR "OFFICE" MEANS THE GOVERNOR'S ENERGY OFFICE CREATED IN SECTION 24-38.5-101, C.R.S.

(2) "GREEN TRUCK GRANT PROGRAM" OR "GRANT PROGRAM" MEANS THE GREEN TRUCK GRANT PROGRAM CREATED IN SECTION 42-1-304 (1).

(3) "QUALIFIED RECIPIENT" MEANS AN OWNER OF A COMMERCIAL TRUCK REGISTERED IN THE STATE FOR PURPOSES OF INTERSTATE OR INTRASTATE COMMERCE.

(4) "TRUCK" MEANS A TRUCK, TRUCK TRACTOR, TRAILER, OR SEMITRAILER REGISTERED IN THE STATE FOR PURPOSES OF INTERSTATE OR INTRASTATE COMMERCE.

42-1-304. Green truck grant program - created. (1) THERE IS HEREBY CREATED IN THE GOVERNOR'S ENERGY OFFICE THE GREEN TRUCK GRANT PROGRAM TO PROVIDE GRANTS TO QUALIFIED RECIPIENTS FOR REDUCTIONS IN TRUCK EMISSIONS AND ENERGY USAGE BY:

(a) (I) REIMBURSEMENTS OF TWENTY-FIVE PERCENT, NOT TO EXCEED FIFTY THOUSAND DOLLARS TO A QUALIFIED RECIPIENT, OF THE OVERALL COST INCURRED BY A QUALIFIED RECIPIENT IN PURCHASING OR INSTALLING FUEL-EFFICIENT TECHNOLOGIES AND EMISSION-CONTROL DEVICES APPROVED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY'S SMARTWAY TRANSPORT PARTNERSHIP

PROGRAM, OR ANY SUCCESSOR PROGRAM, TO REDUCE FUEL CONSUMPTION AND EMISSIONS OF GREENHOUSE GASES AND OTHER HARMFUL AIR POLLUTANTS FROM TRUCKS.

(II) THE TOTAL OF ALL REIMBURSEMENTS ISSUED BY THE OFFICE TO QUALIFIED RECIPIENTS PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) SHALL NOT EXCEED FIVE HUNDRED THOUSAND DOLLARS IN A FISCAL YEAR.

(b) (I) PROVIDING GRANTS OF UP TO FIVE THOUSAND DOLLARS PER QUALIFIED RECIPIENT FOR THE RETIREMENT AND SCRAPPING OF A 1989 OR OLDER MODEL YEAR TRUCK THAT IS:

(A) DOCUMENTED TO HAVE BEEN IN USE FOR AT LEAST TEN THOUSAND MILES DURING THE CALENDAR YEAR PRECEDING THE QUALIFIED RECIPIENT'S APPLICATION FOR THE GRANT; AND

(B) DONATED TO AN ESTABLISHED AUTO PARTS RECYCLER, AS DEFINED IN SECTION 42-4-2201 (1), OR A SCRAP METAL RECYCLER, THAT OPERATES PURSUANT TO ALL LAWS, RULES, AND REGULATIONS OF THE STATE AND THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGARDING RECYCLING.

(II) THE TOTAL OF ALL GRANTS ISSUED BY THE OFFICE TO QUALIFIED RECIPIENTS PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) SHALL NOT EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS IN A FISCAL YEAR.

(2) (a) THE OFFICE SHALL ADMINISTER THE GRANT PROGRAM AND SHALL AWARD REIMBURSEMENTS AND GRANTS AS PROVIDED IN THIS PART 3. REIMBURSEMENTS AND GRANTS SHALL BE PAID OUT OF THE GREEN TRUCK GRANT PROGRAM FUND CREATED IN SECTION 42-1-305.

(b) THE OFFICE SHALL ADOPT POLICIES FOR THE IMPLEMENTATION OF THE GREEN TRUCK GRANT PROGRAM. AT A MINIMUM, THE POLICIES SHALL SPECIFY THE PROCEDURES FOR APPLYING FOR A REIMBURSEMENT OR GRANT, THE FORM OF THE REIMBURSEMENT OR GRANT APPLICATION, AND THE INFORMATION TO BE PROVIDED BY THE APPLICANT.

(c) THE OFFICE SHALL REVIEW EACH REIMBURSEMENT OR GRANT APPLICATION RECEIVED FROM A QUALIFIED RECIPIENT AND SHALL MAKE A DETERMINATION AS TO WHETHER THE REIMBURSEMENT OR GRANT SHOULD BE AWARDED AND, SUBJECT TO THE LIMITATIONS IN PARAGRAPHS (a) AND (b) OF SUBSECTION (1) OF THIS SECTION, THE AMOUNT OF THE REIMBURSEMENT OR GRANT. IF THE OFFICE DETERMINES AN APPLICATION IS MISSING ANY INFORMATION REQUIRED TO BE INCLUDED WITH THE APPLICATION, THE OFFICE MAY CONTACT THE APPLICANT TO OBTAIN THE MISSING INFORMATION.

(3) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT OR RESTRICT THE ABILITY OF AN AUTO PARTS RECYCLER, AS DEFINED IN SECTION 42-4-2201 (1), FROM RECYCLING ANY PART OF A SCRAPPED VEHICLE FOR USE AS A REPLACEMENT PART.

42-1-305. Green truck grant program fund - created. (1) THERE IS HEREBY

CREATED IN THE STATE TREASURY THE GREEN TRUCK GRANT PROGRAM FUND, REFERRED TO IN THIS SECTION AS THE "FUND". THE FUND SHALL BE ADMINISTERED BY THE OFFICE AND SHALL CONSIST OF:

(a) ANY GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES THAT THE OFFICE IS HEREBY AUTHORIZED TO SEEK AND ACCEPT; AND

(b) ANY MONEYS APPROPRIATED TO THE FUND BY THE GENERAL ASSEMBLY.

(2) ALL MONEYS IN THE FUND SHALL BE CONTINUOUSLY APPROPRIATED BY THE GENERAL ASSEMBLY TO THE OFFICE TO BE USED FOR THE PURPOSES SET FORTH IN THIS PART 3. ALL MONEYS NOT EXPENDED OR ENCUMBERED, AND ALL INTEREST EARNED ON THE INVESTMENT OR DEPOSIT OF MONEYS IN THE FUND, SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND AT THE END OF ANY FISCAL YEAR.

SECTION 4. 42-4-2201, Colorado Revised Statutes, is amended to read:

42-4-2201. Definitions. As used in this part 22, unless the context otherwise requires:

(1) "AUTO PARTS RECYCLER" MEANS ANY PERSON THAT PURCHASES MOTOR VEHICLES FOR THE PURPOSE OF DISMANTLING AND SELLING THE COMPONENTS THEREOF AND THAT COMPLIES WITH ALL FEDERAL, STATE, AND LOCAL LAWS AND REGULATIONS.

~~(1)~~ (2) "Licensed motor vehicle dealer" means a motor vehicle dealer that is licensed pursuant to part 1 of article 6 of title 12, C.R.S.

~~(2)~~ (3) "Operator" means a person or a firm licensed by the public utilities commission as a towing carrier.

~~(3)~~ (4) "Recycling" means:

(a) Crushing or shredding a motor vehicle to produce scrap metal that may be used to produce new products; or

(b) Dismantling a motor vehicle to remove reusable parts prior to recycling the remainder of the vehicle.

~~(4)~~ (5) "System" means the Colorado motor vehicle verification system created in section 42-4-2203.

SECTION 5. 24-38.5-102 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-38.5-102. Governor's energy office - duties and powers. (1) The governor's energy office shall:

(s) ADMINISTER THE GREEN TRUCK GRANT PROGRAM PURSUANT TO PART 3 OF ARTICLE 1 OF TITLE 42, C.R.S.

SECTION 6. No appropriation. The general assembly has determined that sections 3, 4, and 5 of this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of sections 3, 4, and 5 of this act.

SECTION 7. Effective date. This act shall take effect upon passage; except that sections 1 and 2 of this act shall not take effect unless a sustainable source of revenue has been identified for the implementation of sections 1 and 2 of this act and the revisor of statutes has received written notice from the executive director of the department of revenue to that effect.

SECTION 8. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 4, 2009