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SENATE BILL NO. 1357

Offered January 14, 2009

Prefiled January 14, 2009

A *BILL to amend and reenact § 58.1-439.1 of the Code of Virginia, relating to the clean fuel vehicle job creation tax credit; cellulosic biofuels.*

Patron—Hanger

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That § 58.1-439.1 of the Code of Virginia is amended and reenacted as follows:**

§ 58.1-439.1. Clean fuel vehicle and cellulosic biofuels job creation tax credit.

A. For taxable years beginning on or after January 1, 1996, through December 31, 2011, a corporation shall be eligible for a credit against the tax levied pursuant to § 58.1-400 equal to \$700 for each job which is created in either (i) the manufacture of components for vehicles designed to operate on a clean special fuel; (ii) the manufacture of components used to convert vehicles designed to operate on gasoline or diesel fuel to operate on clean special fuel; (iii) the conversion of vehicles designed to operate on gasoline or diesel fuel to operate on clean special fuel; (iv) the manufacture of vehicles designed to operate on clean special fuel; or (v) the manufacture of components designed to produce, store, and dispense hydrogen as a vehicle fuel. The credit shall be allowed in the taxable year in which the job is created and in each of the two succeeding years in which the job is continued.

B. For purposes of this section, "clean special fuel" shall have the same meaning as provided in § 46.2-749.3 and "vehicle" shall have the same meaning as provided in U.S. Internal Revenue Code §§ 179A and 30.

C. For purposes of this section, "job" shall mean the full-time employment of an individual in Virginia by a corporation for at least forty hours per week during at least forty weeks during the calendar year whose primary work activity is related directly to either (i) the manufacture of the major components of the energy storage, energy supply or engine, motor, and power train mechanisms unique to a vehicle fueled by clean special fuels; (ii) the manufacture of components uniquely used to convert vehicles designed to operate on gasoline or diesel fuel to operate on clean special fuel; (iii) the conversion of vehicles designed to operate on gasoline or diesel fuel to operate on clean special fuel; or (iv) the manufacture of vehicles designed to operate on clean special fuel.

A. For purposes of this section:

"Cellulosic biofuels" means a renewable fuel derived from any cellulose, hemicellulose, or lignin that is derived from renewable biomass and meets all applicable American Society for Testing and Materials (ASTM) standards for use in vehicles on the highways of the Commonwealth.

"Clean special fuel" means any product or energy source used to propel a highway vehicle, the use of which, compared to conventional gasoline or reformulated gasoline, results in lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide or particulates or any combination thereof. The term includes compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, hythane (a combination of compressed natural gas and hydrogen), or electricity.

"Job" shall mean the full-time employment of an individual in Virginia by a corporation for at least 40 hours per week during at least 40 weeks during the calendar year whose primary work activity is related directly to any of the activities listed in subsection B.

"Vehicle" shall have the same meaning as provided in U.S. Internal Revenue Code §§ 179A and 30.

B. For taxable years beginning on or after January 1, 1996, through December 31, 2011, a corporation shall be eligible for a credit against the tax levied pursuant to § 58.1-400 equal to \$700 for each job that is created in either (i) the manufacture of the major components of the energy storage, energy supply, or engine, motor, and power train mechanisms unique to a vehicle fueled by clean special fuels; (ii) the manufacture of components uniquely used to convert vehicles designed to operate on gasoline or diesel fuel to operate on clean special fuels or cellulosic biofuels; (iii) the conversion of vehicles designed to operate on gasoline or diesel fuel to operate on clean special fuels or cellulosic biofuels; (iv) the manufacture of vehicles designed to operate on clean special fuels; (v) the manufacture of components designed to produce, store, and dispense clean special fuels or cellulosic biofuels; or (vi) the production of cellulosic biofuels. The credit shall be allowed in the taxable year in which the job is created and in each of the two succeeding years in which the job is continued.

D.C. To qualify for the tax credit provided in subsection AB of this section, a corporation must demonstrate (i) that a job was created during the taxable year for which the credit is claimed or was

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59 continued from the previous taxable year in which a credit was claimed and (ii) the employment level in
60 jobs defined in subsection 6A of this section in the taxable year for which the credit is first claimed has
61 increased in comparison to the previous taxable year.

62 *ED.* Any tax credit not used in the taxable year of job creation or continuation may be carried over
63 for credit against the corporation's income tax in the five succeeding taxable years until the total credit
64 amount is used.

65 *FE.* In case of a partnership or limited liability company, the credit shall be allocated to the corporate
66 partners or corporate members in proportion to their ownership or interest in the partnership or limited
67 liability company.

68 *GF.* A corporation shall not be eligible for a tax credit pursuant to this section if such corporation is
69 allowed a major business facility job tax credit pursuant to § 58.1-439.