

# MAINE STATE LEGISLATURE

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90K  
H. of S.

L.D. 540

(Filing No. H- 222 )

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
116TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 421, L.D. 540, Bill, "An Act Regarding the Use of Natural Gas in Motor Vehicles"

Amend the bill by inserting after the title and before the enacting clause the following:

'Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, there is a market for natural gas use in vehicles that is not currently being served; and

Whereas, there are benefits to this State in encouraging immediate availability of natural gas for use in vehicles; and

Whereas, delay in making natural gas available for use in vehicles will reduce the benefits to this State; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, '

Further amend the bill by striking out all of section 2 and inserting in its place the following:

'Sec. 2. 35-A MRSA §4703-A is enacted to read:

§4703-A. Natural gas for use in vehicles

The following provisions govern the creation of subsidiaries or affiliates of gas utilities for the purpose of selling gas for use in vehicles fueled by natural gas.

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2           1. Policy and findings. The Legislature finds that it is  
3 in the best interests of this State that the sale of natural gas  
4 for use as fuel in vehicles take place in an unregulated  
5 environment. The Legislature finds that entities that assume the  
6 risk of investment in the business of selling natural gas for use  
7 as a fuel in vehicles are entitled to the rewards and should be  
8 responsible for the costs of engaging in that business. It is  
9 the policy of the Legislature, in authorizing the creation of  
10 certain unregulated entities under this section, that ratepayers  
11 of gas utilities should not, as ratepayers, contribute to or  
12 benefit from the unregulated activity of those entities.

14           2. Creation of subsidiary or affiliate. Notwithstanding  
15 section 708, a gas utility may create without commission approval  
16 a wholly owned subsidiary or affiliate corporation whose sole  
17 purpose is to sell gas for use in vehicles fueled by natural gas,  
18 provided that:

20           A. The creation of the wholly owned subsidiary or affiliate  
21 does not result in ratepayers of the gas utility directly or  
22 indirectly contributing to or benefiting from the activities  
23 of the wholly owned subsidiary or affiliate and does not  
24 otherwise adversely affect ratepayers of the gas utility; and

26           B. The creation of a subsidiary or affiliate does not  
27 impair the ability of the gas utility to provide safe,  
28 reasonable and adequate service.

30           3. Rates for sales by gas utility. The rate for any sale  
31 of gas by a gas utility to a subsidiary or affiliate corporation  
32 created pursuant to this section or to any other entity that  
33 provides natural gas for use in vehicles must exceed the actual  
34 cost of the gas sold and include a contribution to the fixed  
35 costs of the utility. The commission may not find that the cost  
36 of gas sold to other customers of the utility has been increased  
37 as a result of any sale of gas by the utility at a rate that  
38 meets the requirements of this section.

40           4. Allocation of earnings. The commission may not allocate  
41 earnings of a wholly owned subsidiary or affiliate created  
42 pursuant to this section in a manner that benefits the customers  
43 of a gas utility.

44           5. Separate books and records. A subsidiary or affiliate  
45 created pursuant to this section shall maintain separate and  
46 independent books, accounts and records.

48           6. Access to books and records. A gas utility shall  
49 provide the commission with reasonable access to books, records,  
50

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2 documents and other information of the gas utility related to a  
3 subsidiary or affiliate corporation created pursuant to this  
4 section.

6 7. Reasonableness of transaction. In a commission  
7 proceeding pursuant to section 307, 1303 or 4703, a gas utility  
8 shall demonstrate that all transactions with a subsidiary or  
9 affiliate corporation created by the utility pursuant to this  
10 section were reasonable.

12 8. Commission oversight. Notwithstanding the provisions of  
13 section 707, transactions between a gas utility and a subsidiary  
14 or affiliated interest created pursuant to this section do not  
15 require preapproval by the commission.

16 9. Investment by utility. Except as otherwise provided in  
17 this subsection, a gas utility that creates a subsidiary or  
18 affiliate corporation pursuant to this section may not invest in  
19 that subsidiary or affiliate corporation an amount greater than  
20 1% of the gas utility's total retail revenues. Upon request of a  
21 gas utility, the commission, after notice and hearing, may permit  
22 an investment greater than 1% of the utility's total retail  
23 revenues.

24 10. Regulation of gas utility. Except as expressly  
25 provided in this section, nothing in this section exempts a gas  
26 utility from any laws, principles and rules governing the  
27 regulation of public utilities.

28 11. Subsidiary or affiliate created by the parent  
29 corporation of a gas utility. If a subsidiary or affiliated  
30 interest is created by the parent corporation of a gas utility  
31 for the purpose of supplying natural gas for use in vehicles, the  
32 following provisions apply.

33 A. If the subsidiary or affiliate does any business in this  
34 State, the parent corporation shall provide the commission  
35 with reasonable access to books, records, documents or other  
36 information of the parent corporation related to that  
37 subsidiary or affiliate.

38 B. In a commission proceeding pursuant to section 307, 1303  
39 or 4703, a gas utility shall demonstrate that all  
40 transactions with a subsidiary or affiliate of a parent  
41 corporation were reasonable.

42 For purposes of this subsection, the term "parent corporation"  
43 means an affiliated interest, as defined in section 707,  
44 subsection 1, paragraph A, subparagraphs (1), (2) and (4), of a  
45 gas utility that is not itself a gas utility in this State.

2 12. Limitations. Except as provided in this section, the  
3 sale by a person, not otherwise a gas utility, of natural gas  
4 directly to customers for use in vehicles fueled by natural gas  
5 is not subject to regulation by the commission.

6 **Emergency clause.** In view of the emergency cited in the  
7 preamble, this Act takes effect when approved.  
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12 **STATEMENT OF FACT**

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14 This amendment strikes and replaces section 2 of the bill.

15 Under this amendment, a gas utility is authorized to create  
16 a wholly owned subsidiary or affiliate to promote vehicles fueled  
17 by natural gas. The amendment provides that approval of the  
18 subsidiary by the Public Utilities Commission is not required.  
19 The amendment further provides that utility ratepayers will not  
20 pay for or benefit from the establishment or operation of the  
21 subsidiary or affiliate. The amendment includes several  
22 conditions on the creation of such subsidiaries or affiliates  
23 that mirror provisions in the Maine Revised Statutes, Title 35-A,  
24 section 708 and are designed to protect ratepayer interests.  
25 This amendment also provides certain protections for ratepayers  
26 if an unregulated parent corporation of a gas utility creates a  
27 subsidiary to sell natural gas in this State for use in vehicles.

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30 This amendment preserves section 1 of the bill, which  
31 excludes from the definition of "gas utility" any entity that  
32 sells natural gas solely for use in vehicles. Under the bill, as  
33 amended by this amendment, these entities are essentially  
34 exempted for regulation by the Public Utilities Commission.

35  
36 This amendment also adds emergency language to the bill.

Reported by the Committee on Utilities  
Reproduced and distributed under the direction of the Clerk of the  
House  
4/30/93 (Filing No. H-222)