



## 2005 SENATE BILL 620

February 22, 2006 - Introduced by Senators HARSDORF, A. LASEE, HANSEN, S. FITZGERALD and RISSER, cosponsored by Representatives SHERIDAN, DAVIS, GRONEMUS, WOOD, JENSEN, HEBL, KESSLER, MUSSER, SEIDEL, STASKUNAS and BERCEAU. Referred to Committee on Energy, Utilities and Information Technology.

1     **AN ACT to amend** 71.05 (6) (a) 15., 71.08 (1) (intro.), 71.21 (4), 71.26 (2) (a), 71.34  
2           (1) (g), 71.45 (2) (a) 10. and 77.92 (4); and **to create** 71.07 (5e), 71.10 (4) (gn),  
3           71.28 (5e), 71.30 (3) (dq), 71.47 (5e) and 71.49 (1) (dq) of the statutes; **relating**  
4           **to:** creating an income and franchise tax credit for motor vehicles that use  
5           gasoline and ethanol mixtures as fuel and for fuel efficient hybrid motor  
6           vehicles.

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### *Analysis by the Legislative Reference Bureau*

This bill creates an income and franchise tax credit that is equal to the amount of sales and use taxes a person paid in the taxable year on the purchase of any new motor vehicle that is licensed for highway use and capable of using both gasoline and a mixture of gasoline and at least 85 percent ethanol as a fuel to propel the motor vehicle or is a hybrid motor vehicle with a federal Environmental Protection Agency rating that is greater than 40 miles per gallon. The amount of the credit that a person may claim may not exceed an amount equal to \$1,000 for each motor vehicle purchased in the taxable year.

**SENATE BILL 620**

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 71.05 (6) (a) 15. of the statutes is amended to read:

2           71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),  
3           (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), ~~and (5d)~~, and (5e)  
4           and not passed through by a partnership, limited liability company, or tax-option  
5           corporation that has added that amount to the partnership's, company's, or  
6           tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

7           **SECTION 2.** 71.07 (5e) of the statutes is created to read:

8           71.07 **(5e)** FLEXIBLE FUEL MOTOR VEHICLES CREDIT. (a) *Definitions.* In this  
9           subsection, "claimant" means a person who files a claim under this subsection.

10           (b) *Filing claims.* Subject to the limitations provided under this subsection, a  
11           claimant may claim as a credit against the taxes imposed under ss. 71.02 and 71.08,  
12           up to the amount of the taxes, an amount that is equal to the amount of the taxes  
13           imposed under subch. III of ch. 77 that the claimant paid in the taxable year on the  
14           purchase or lease of any new motor vehicle, licensed for highway use, that is capable  
15           of using both gasoline and a mixture of gasoline and at least 85 percent ethanol as  
16           a fuel to propel the motor vehicle or that is a hybrid motor vehicle with a federal  
17           environmental protection agency rating that is greater than 40 miles per gallon.

18           (c) *Limitations.* 1. The maximum amount of the credit that a claimant may  
19           claim under this subsection in a taxable year is an amount equal to \$1,000,  
20           multiplied by the number of motor vehicles described under par. (b) that the claimant  
21           purchased or leased in the taxable year, except that the total amount that a claimant

**SENATE BILL 620**

1 may claim for all taxable years combined with respect to the lease of any single motor  
2 vehicle may not exceed \$1,000.

3 2. Partnerships, limited liability companies, and tax-option corporations may  
4 not claim the credit under this subsection, but the eligibility for, and the amount of,  
5 the credit are based on their payment of amounts described under par. (b). A  
6 partnership, limited liability company, or tax-option corporation shall compute the  
7 amount of credit that each of its partners, members, or shareholders may claim and  
8 shall provide that information to each of them. Partners, members of limited liability  
9 companies, and shareholders of tax-option corporations may claim the credit in  
10 proportion to their ownership interests.

11 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under  
12 s. 71.28 (4), applies to the credit under this subsection.

13 **SECTION 3.** 71.08 (1) (intro.) of the statutes, as affected by 2005 Wisconsin Act  
14 25, is amended to read:

15 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married  
16 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under  
17 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3n), (3s),  
18 (3t), (5b), (5d), (5e), (6), (6e), and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds),  
19 (1dx), (1fd), (2m), (3), (3n), ~~and (3t), and (5e)~~, and 71.47 (1dd), (1de), (1di), (1dj), (1dL),  
20 (1ds), (1dx), (1fd), (2m), (3), (3n), ~~and (3t), and (5e)~~, and subchs. VIII and IX and  
21 payments to other states under s. 71.07 (7), is less than the tax under this section,  
22 there is imposed on that natural person, married couple filing jointly, trust, or estate,  
23 instead of the tax under s. 71.02, an alternative minimum tax computed as follows:

24 **SECTION 4.** 71.10 (4) (gn) of the statutes is created to read:

25 71.10 (4) (gn) Flexible fuel motor vehicles credit under s. 71.07 (5e).

**SENATE BILL 620****SECTION 5**

1           **SECTION 5.** 71.21 (4) of the statutes, as affected by 2005 Wisconsin Act 74, is  
2 amended to read:

3           71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),  
4 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), (5e), and (5g) and passed  
5 through to partners shall be added to the partnership's income.

6           **SECTION 6.** 71.26 (2) (a) of the statutes, as affected by 2005 Wisconsin Act 74,  
7 is amended to read:

8           71.26 (2) (a) *Corporations in general.* The “net income” of a corporation means  
9 the gross income as computed under the Internal Revenue Code as modified under  
10 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit  
11 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)  
12 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income  
13 under this paragraph at the time that the taxpayer first claimed the credit plus the  
14 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),  
15 (1ds), (1dx), (3g), (3n), (3t), (5b), (5e), and (5g) and not passed through by a  
16 partnership, limited liability company, or tax-option corporation that has added that  
17 amount to the partnership's, limited liability company's, or tax-option corporation's  
18 income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or  
19 other disposition of assets the gain from which would be wholly exempt income, as  
20 defined in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and  
21 minus deductions, as computed under the Internal Revenue Code as modified under  
22 sub. (3), plus or minus, as appropriate, an amount equal to the difference between  
23 the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or  
24 otherwise disposed of in a taxable transaction during the taxable year, except as  
25 provided in par. (b) and s. 71.45 (2) and (5).

**SENATE BILL 620**

1           **SECTION 7.** 71.28 (5e) of the statutes is created to read:

2           71.28 **(5e)** FLEXIBLE FUEL MOTOR VEHICLES CREDIT. (a) *Definitions.* In this  
3 subsection, “claimant” means a person who files a claim under this subsection.

4           (b) *Filing claims.* Subject to the limitations provided under this subsection, a  
5 claimant may claim as a credit against the taxes imposed under s. 71.23, up to the  
6 amount of the taxes, an amount that is equal to the amount of the taxes imposed  
7 under subch. III of ch. 77 that the claimant paid in the taxable year on the purchase  
8 or lease of any new motor vehicle, licensed for highway use, that is capable of using  
9 both gasoline and a mixture of gasoline and at least 85 percent ethanol as a fuel to  
10 propel the motor vehicle or that is a hybrid motor vehicle with a federal  
11 environmental protection agency rating that is greater than 40 miles per gallon.

12           (c) *Limitations.* 1. The maximum amount of the credit that a claimant may  
13 claim under this subsection in a taxable year is an amount equal to \$1,000,  
14 multiplied by the number of motor vehicles described under par. (b) that the claimant  
15 purchased or leased in the taxable year, except that the total amount that a claimant  
16 may claim for all taxable years combined with respect to the lease of any single motor  
17 vehicle may not exceed \$1,000.

18           2. Partnerships, limited liability companies, and tax-option corporations may  
19 not claim the credit under this subsection, but the eligibility for, and the amount of,  
20 the credit are based on their payment of amounts described under par. (b). A  
21 partnership, limited liability company, or tax-option corporation shall compute the  
22 amount of credit that each of its partners, members, or shareholders may claim and  
23 shall provide that information to each of them. Partners, members of limited liability  
24 companies, and shareholders of tax-option corporations may claim the credit in  
25 proportion to their ownership interests.

**SENATE BILL 620****SECTION 7**

1 (d) *Administration*. Subsection (4) (e) to (h), as it applies to the credit under  
2 sub. (4), applies to the credit under this subsection.

3 **SECTION 8.** 71.30 (3) (dq) of the statutes is created to read:

4 71.30 (3) (dq) Flexible fuel motor vehicles credit under s. 71.28 (5e).

5 **SECTION 9.** 71.34 (1) (g) of the statutes, as affected by 2005 Wisconsin Act 74,  
6 is amended to read:

7 71.34 (1) (g) An addition shall be made for credits computed by a tax-option  
8 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),  
9 (3n), (3t), (5b), (5e), and (5g) and passed through to shareholders.

10 **SECTION 10.** 71.45 (2) (a) 10. of the statutes, as affected by 2005 Wisconsin Act  
11 74, is amended to read:

12 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit  
13 computed under s. 71.47 (1dd) to (1dx), (3n), (5b), (5e), and (5g) and not passed  
14 through by a partnership, limited liability company, or tax-option corporation that  
15 has added that amount to the partnership's, limited liability company's, or  
16 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and the amount of  
17 credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

18 **SECTION 11.** 71.47 (5e) of the statutes is created to read:

19 71.47 (5e) FLEXIBLE FUEL MOTOR VEHICLES CREDIT. (a) *Definitions*. In this  
20 subsection, "claimant" means a person who files a claim under this subsection.

21 (b) *Filing claims*. Subject to the limitations provided under this subsection, a  
22 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the  
23 amount of the taxes, an amount that is equal to the amount of the taxes imposed  
24 under subch. III of ch. 77 that the claimant paid in the taxable year on the purchase  
25 or lease of any new motor vehicle, licensed for highway use, that is capable of using

**SENATE BILL 620**

1 both gasoline and a mixture of gasoline and at least 85 percent ethanol as a fuel to  
2 propel the motor vehicle or that is a hybrid motor vehicle with a federal  
3 environmental protection agency rating that is greater than 40 miles per gallon.

4 (c) *Limitations.* 1. The maximum amount of the credit that a claimant may  
5 claim under this subsection in a taxable year is an amount equal to \$1,000,  
6 multiplied by the number of motor vehicles described under par. (b) that the claimant  
7 purchased or leased in the taxable year, except that the total amount that a claimant  
8 may claim for all taxable years combined with respect to the lease of any single motor  
9 vehicle may not exceed \$1,000.

10 2. Partnerships, limited liability companies, and tax-option corporations may  
11 not claim the credit under this subsection, but the eligibility for, and the amount of,  
12 the credit are based on their payment of amounts described under par. (b). A  
13 partnership, limited liability company, or tax-option corporation shall compute the  
14 amount of credit that each of its partners, members, or shareholders may claim and  
15 shall provide that information to each of them. Partners, members of limited liability  
16 companies, and shareholders of tax-option corporations may claim the credit in  
17 proportion to their ownership interests.

18 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under  
19 s. 71.28 (4), applies to the credit under this subsection.

20 **SECTION 12.** 71.49 (1) (dq) of the statutes is created to read:

21 71.49 (1) (dq) Flexible fuel motor vehicles credit under s. 71.47 (5e).

22 **SECTION 13.** 77.92 (4) of the statutes, as affected by 2005 Wisconsin Act 74, is  
23 amended to read:

24 77.92 (4) "Net business income," with respect to a partnership, means taxable  
25 income as calculated under section 703 of the Internal Revenue Code; plus the items

**SENATE BILL 620****SECTION 13**

1 of income and gain under section 702 of the Internal Revenue Code, including taxable  
2 state and municipal bond interest and excluding nontaxable interest income or  
3 dividend income from federal government obligations; minus the items of loss and  
4 deduction under section 702 of the Internal Revenue Code, except items that are not  
5 deductible under s. 71.21; plus guaranteed payments to partners under section 707  
6 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),  
7 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), (5b), (5e), and (5g);  
8 and plus or minus, as appropriate, transitional adjustments, depreciation  
9 differences, and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but  
10 excluding income, gain, loss, and deductions from farming. "Net business income,"  
11 with respect to a natural person, estate, or trust, means profit from a trade or  
12 business for federal income tax purposes and includes net income derived as an  
13 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

**SECTION 14. Initial applicability.**

14  
15 (1) This act first applies to taxable years beginning on January 1 of the year  
16 in which this subsection takes effect, except that if this subsection takes effect after  
17 July 31 this act first applies to taxable years beginning on January 1 of the year  
18 following the year in which this subsection takes effect.

19 (END)