

September 23, 2019

Re: House Bill 1392

Dear Representative:

You may soon be asked to vote on House Bill 1392, which, as amended in the House on September 19, would establish registration fees on electric vehicles (EVs) in Pennsylvania. For the reasons stated below, **the undersigned organizations respectfully request that you vote NO on HB 1392.**

HB 1392 would tax EVs at a higher rate than similar gasoline- and diesel-powered vehicles, while doing virtually nothing to fix the structural budget problems that transportation infrastructure funding faces in Pennsylvania. Instead, HB 1392 would only disincentivize the purchase of EVs when we should be doing the opposite, and would give a free pass to drivers of other alternative fuel vehicles, including state-subsidized compressed natural gas (CNG) vehicles;

Summary of House Bill 1392

As amended on second consideration, HB 1392 would revise Pennsylvania's Liquid Fuels and Fuels Tax Act (LFFTA) by removing electricity from the list of fuels subject to Pennsylvania's current Alternative Fuel Tax (AFT)¹ and imposing annual "road fees" on EVs as follows:

- \$50 per year for electric motorcycles and "neighborhood vehicles,"
- \$75 per year for hybrid EVs, i.e., vehicles that use both gasoline and electricity, and
- \$250 per year for EVs (commercial and non-commercial) that run solely on electricity, i.e. "plug-in" EVs.

The \$250 fee on plug-in EVs would be the highest in the U.S.,² and would be much higher than the average annual gas tax bill for new vehicles in Pennsylvania.³

Opposition to HB 1392

The undersigned organizations oppose HB 1392 for three main reasons.

First, while we agree that the AFT is a "confusing and difficult to administer" way to levy taxes on vehicles powered by alternative fuels, HB 1392 does not fix the AFT. Rather, it would create a new method of taxation that applies exclusively – discriminatorily – to EVs while leaving all other alternative fuel vehicles covered by the AFT.

¹ The AFT is codified at 75 Pa.C.S. § 9004(d).

² Bills to impose a \$250 fee on EVs have been introduced in Minnesota (SF 1409 and HB 2026), but neither has enacted into law. *See* Consumer Reports, *Rising Trend of Punitive Fees on Electric Vehicles Won't Dent State Highway Funding Shortfalls But Will Hurt Consumers*, September, 2019, available at <https://advocacy.consumerreports.org/wp-content/uploads/2019/09/Consumer-Reports-EV-Fee-analysis.pdf>

³ *See* calculation by Consumer Reports, September 20, 2019, available at <https://twitter.com/CRAAdvocacy/status/1175127116364603393>

The term “alternative fuels” is defined in the LFFTA to include not just electricity, but also natural gas, compressed natural gas (CNG), liquified natural gas (LNG), liquid propane gas and liquified petroleum gas (LPG), alcohols, certain gasoline-alcohol mixtures, hydrogen, hythane, and “any other fuel used to propel motor vehicles on the public highways which is not taxable as fuels or liquid fuels under this chapter.” 75 Pa.C.S.A. § 9002.

Since the enactment of the Alternative Fuels Incentive Act of 2004 (AFIA), Pennsylvania has spent tens of millions of dollars on subsidies for CNG, propane, and hydrogen vehicles and related infrastructure.⁴ Act 13 allocated \$20 million in impact fees to a new “Natural Gas Energy Development Program” administered by the Department of Environmental Protection, and the DEP duly used these funds to subsidize the purchase of more than 900 CNG vehicles.⁵ Thanks in part to these and other state and federal programs, there are thousands of CNG, propane, and hydrogen vehicles registered in Pennsylvania today, and many of them are heavy-duty commercial and industrial vehicles that take an especially heavy toll on Pennsylvania’s roads and bridges. By contrast, nearly all of the several thousand EVs registered in the Commonwealth today are light-duty vehicles.

Under the LFFTA, “dealer-users” who deliver or place CNG, propane, and hydrogen in fuel tanks are supposed to remit alternative fuel taxes to the Department of Revenue just as “dealer-users” who charge EVs are. Are these remittances being made? Presumably, the “confusing and difficult to administer” AFT results in under-remittance by *all* types of alternative fuel vehicles subject to the tax, in which case CNG, propane, and hydrogen vehicles also “contribute substantially less in fuel taxes toward our transportation infrastructure” than gasoline and diesel vehicles, while causing more damage to Pennsylvania’s roads than EVs and providing fewer environmental benefits. Why, then, does HB 1392 single out EVs to pay new registration fees while leaving other alternative fuel vehicles subject to the AFT? If the AFT is ineffective, it should be revised for all alternative fuel vehicles, not just EVs.

Second, we oppose HB 1392 because absent comprehensive reform to the LFFTA, EV road fees will likely discourage consumers from buying EVs at a time when we should be encouraging their purchase to reduce Americans’ dependence on oil and mitigate climate change. Viewed in isolation, the fees imposed by HB 1392 may seem reasonable. But consumers shopping for vehicles – and comparing EVs to other types of vehicles – will see the fee as a penalty for buying an EV. That would undermine what surveys have shown to be the single greatest motivation for buying EVs: saving money on fuel. In a report issued this June, researchers from the Institute of Transportation Studies from the University of California-Davis estimated that California’s \$100

⁴ See, e.g., the DEP’s latest AFIA report to the General Assembly, which lists more than \$1.5 million in AFIG grants for CNG vehicles and infrastructure during the 2017-18 Fiscal Year, available at <http://www.depgreenport.state.pa.us/elibrary/GetDocument?docId=1433771&DocName=ALTERNATIVE%20FUELS%20INCENTIVE%20ACT%20FUND%202017-2018%20ANNUAL%20REPORT.PDF%20%20%3Cspan%20style%3D%22color:blue%3b%22%3E%28NEW%29%3C/span%3E#>

⁵ See DEP, 2016 Annual Report: Pennsylvania Natural Gas Energy Development Program, available at <http://www.depgreenport.state.pa.us/elibrary/GetDocument?docId=5437&DocName=0120-RE-DEP4709%20-%20Combined.pdf#>

annual fee on EVs will reduce EV sales by 10 to 20 percent in the short run.⁶ It is reasonable to assume that a \$150 annual fee in Pennsylvania would dampen sales even more, both because the fee is 50 percent higher and because EV charging infrastructure is, to date, less available in Pennsylvania than in California.

Third, HB 1392 would do virtually nothing to create a stable source of funding for road and bridge maintenance in Pennsylvania. Plug-in EVs are not the reason for the Commonwealth's well-documented transportation funding problems: to date, only a few thousand have been registered in Pennsylvania. The biggest reason is that in real dollars, today's federal gas tax collects one-seventh the amount of revenue it did in 1950 because Congress has not raised the gas tax for more than 25 years. Improved vehicle fuel efficiency – which has saved Americans billions of dollars on gasoline and diesel – is also a significant factor. Meanwhile, although Pennsylvania currently has the second-highest state tax on gasoline and diesel in the U.S.,⁷ it has diverted billions of dollars from the Motor Vehicle Fund to fund State Police operations, rather than repair of roads and bridges.⁸

To make up for the transportation revenue shortfalls that it is seeing today, Pennsylvania should adopt structural reforms to the LFFTA. One strategy would be to switch EVs to a mileage-based fee while continuing to have gasoline-powered cars pay gas taxes.⁹ An alternative approach would be to retain the gasoline tax but index it to inflation and total fuel consumption, while taxing EVs and other alternative fuel vehicles through annual fees that are based on (i) the miles-per-gallon-equivalent rating of the vehicle in question,¹⁰ (ii) the current gasoline tax rate, and (iii) the typical number of miles a car drives annually.¹¹ There may be other viable approaches as well, and we urge the General Assembly the full range of workable alternatives. Unfortunately, HB 1392 is not a workable alternative.

Because of rapidly accelerating climate change and increased stress on our transportation infrastructure (due in large part to the effects of climate change) it is critical that we both reduce our consumption of fossil fuels and invest billions of dollars to upgrade transportation infrastructure. For the reasons stated above, we oppose HB 1392. But we also recognize the importance of establishing a stable source of funding for Pennsylvania's transportation

⁶ See Alan Jenn, "Assessing Alternatives to California's Electric Vehicle Registration Fee" (June 4, 2019), available at <https://www.ucdavis.edu/news/how-fund-roads-and-ensure-electric-vehicles-pay-their-share>

⁷ See American Petroleum Institute, *State Motor Fuel Taxes* 39 (2019), <https://www.api.org/~media/Files/Statistics/StateMotorFuel-OnePagers-July-2019.pdf>, at 2, 4.

⁸ See Department of the Auditor General, *Performance Audit Report of the Department of Transportation*, April, 2019, available at <https://www.paauditor.gov/Media/Default/Reports/PA%20Department%20of%20Transportation%20Audit%20Report%2004-25-19.pdf>

⁹ The I-95 Corridor Coalition, which PennDOT and the Turnpike Commission both participate in, is currently conducting a Mileage-Based User Fee pilot study focused on trucks. See https://static1.squarespace.com/static/5a600479ccc5c5e5c8598516/t/5caf7532e633c40001abf7bb/1555002681185/I-95%2BMBUF_Phase%2BII_Truck%2BFact%2BSheet%2B-%2B04.10.19.pdf

¹⁰ These numbers are available at www.fueleconomy.gov.

¹¹ This approach is elaborated in a recent blog by the Natural Resources Defense Council (NRDC), "A Simple Way to Fix the Gas Tax Forever," available at <https://www.nrdc.org/experts/max-baumhefner/simple-way-fix-gas-tax-forever>.

infrastructure, and we are eager to work with the General Assembly on a new policy structure that both meets Pennsylvania's transportation funding needs and protects the state's environment.

Thank you very much.

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