

FIRST REGULAR SESSION

SENATE BILL NO. 103

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KRAUS.

Pre-filed January 3, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

0701S.011

AN ACT

To repeal section 135.710, RSMo, and to enact in lieu thereof one new section relating to alternative fuels tax credits.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 135.710, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 135.710, to read as follows:

135.710. 1. As used in this section, the following terms mean:

2 (1) "Alternative fuels", any motor fuel at least seventy percent of the
3 volume of which consists of one or more of the following:

4 (a) Ethanol;

5 (b) Natural gas;

6 (c) Compressed natural gas;

7 (d) Liquified natural gas;

8 (e) Liquified petroleum gas;

9 (f) Any mixture of biodiesel and diesel fuel, without regard to any use of
10 kerosene;

11 (g) Hydrogen;

12 (2) "Department", the department of natural resources;

13 (3) "Eligible applicant", a business entity that is the owner of a qualified
14 alternative fuel vehicle refueling property **or makes more than twenty-five**
15 **qualified conversions in a one year period;**

16 (4) "Qualified alternative fuel vehicle refueling property", property in this
17 state owned by an eligible applicant and used for storing alternative fuels and for
18 dispensing such alternative fuels into fuel tanks of motor vehicles owned by such
19 eligible applicant or private citizens which, if constructed after August 28, 2008,

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 was constructed with at least fifty-one percent of the costs being paid to qualified
21 Missouri contractors for the:

22 (a) Fabrication of premanufactured equipment or process piping used in
23 the construction of such facility;

24 (b) Construction of such facility; and

25 (c) General maintenance of such facility during the time period in which
26 such facility receives any tax credit under this section. If no qualified Missouri
27 contractor is located within seventy-five miles of the property, the requirement
28 that fifty-one percent of the costs shall be paid to qualified Missouri contractors
29 shall not apply;

30 (5) **"Qualified conversion", the conversion of a motor vehicle**
31 **fueled by petroleum based fuels to a motor vehicle fueled by natural**
32 **gas based fuels;**

33 (6) "Qualified Missouri contractor", a contractor whose principal place of
34 business is located in Missouri and has been located in Missouri for a period of
35 not less than five years.

36 2. For all tax years beginning on or after January 1, [2009] **2014**, but
37 before January 1, [2012] **2017**, any eligible applicant who installs and operates
38 a qualified alternative fuel vehicle refueling property shall be allowed a credit
39 against the tax otherwise due under chapter 143, excluding withholding tax
40 imposed by sections 143.191 to 143.265, or due under chapter 147 or chapter 148
41 for any tax year in which the applicant is constructing the refueling
42 property. The credit allowed in this [section] **subsection** per eligible applicant
43 shall not exceed the lesser of twenty thousand dollars or twenty percent of the
44 total costs directly associated with the purchase and installation of any
45 alternative fuel storage and dispensing equipment on any qualified alternative
46 fuel vehicle refueling property, which shall not include the following:

47 (1) Costs associated with the purchase of land upon which to place a
48 qualified alternative fuel vehicle refueling property;

49 (2) Costs associated with the purchase of an existing qualified alternative
50 fuel vehicle refueling property; or

51 (3) Costs for the construction or purchase of any structure.

52 3. **For all tax years beginning on or after January 1, 2014, but**
53 **before January 1, 2017, any eligible applicant who makes twenty-five**
54 **or more qualified conversions shall be allowed a credit against the tax**
55 **otherwise due under chapter 143, excluding withholding tax imposed**

56 **by sections 143.191 to 143.265, or due under chapter 147 or chapter 148**
57 **for any tax year in which the eligible applicant makes such**
58 **conversions. The credit allowed in this subsection shall not exceed the**
59 **lesser of two thousand five hundred dollars per qualified conversion or**
60 **ten percent of the conversion costs.**

61 4. Tax credits allowed by **subsection 2 of** this section shall be claimed
62 by the eligible applicant at the time such applicant files a return for the tax year
63 in which the storage and dispensing facilities were placed in service at a qualified
64 alternative fuel vehicle refueling property, and shall be applied against the
65 income tax liability imposed by chapter 143, chapter 147, or chapter 148 after all
66 other credits provided by law have been applied. The cumulative amount of tax
67 credits which may be claimed by eligible applicants claiming all credits
68 authorized in this section shall not exceed [the following amounts:

- 69 (1) In taxable year 2009, three million dollars;
70 (2) In taxable year 2010, two million dollars; and
71 (3) In taxable year 2011,] one million dollars **per year.**

72 [4.] **5.** If the amount of the tax credit exceeds the eligible applicant's tax
73 liability, the difference shall not be refundable. Any amount of credit that an
74 eligible applicant is prohibited by this section from claiming in a taxable year
75 may be carried forward to any of such applicant's two subsequent taxable
76 years. Tax credits allowed under this section may be assigned, transferred, sold,
77 or otherwise conveyed.

78 [5.] **6.** An alternative fuel vehicle refueling property, for which an eligible
79 applicant receives tax credits under this section, which ceases to sell alternative
80 fuel shall cause the forfeiture of such eligible applicant's tax credits provided
81 under this section for the taxable year in which the alternative fuel vehicle
82 refueling property ceased to sell alternative fuel and for future taxable years with
83 no recapture of tax credits obtained by an eligible applicant with respect to such
84 applicant's tax years which ended before the sale of alternative fuel ceased.

85 [6.] **7.** The director of revenue shall establish the procedure by which the
86 tax credits in this section may be claimed, and shall establish a procedure by
87 which the cumulative amount of tax credits is apportioned equally among all
88 eligible applicants claiming the credit. To the maximum extent possible, the
89 director of revenue shall establish the procedure described in this subsection in
90 such a manner as to ensure that eligible applicants can claim all the tax credits
91 possible up to the cumulative amount of tax credits available for the taxable year.

92 No eligible applicant claiming a tax credit under this section shall be liable for
93 any interest or penalty for filing a tax return after the date fixed for filing such
94 return as a result of the apportionment procedure under this subsection.

95 [7.] 8. Any eligible applicant desiring to claim a tax credit under this
96 section shall submit the appropriate application for such credit with the
97 department. The application for a tax credit under this section shall include any
98 information required by the department. The department shall review the
99 applications and certify to the department of revenue each eligible applicant that
100 qualifies for the tax credit.

101 [8.] 9. The department and the department of revenue may promulgate
102 rules to implement the provisions of this section. Any rule or portion of a rule,
103 as that term is defined in section 536.010, that is created under the authority
104 delegated in this section shall become effective only if it complies with and is
105 subject to all of the provisions of chapter 536 and, if applicable, section
106 536.028. This section and chapter 536 are nonseverable and if any of the powers
107 vested with the general assembly pursuant to chapter 536 to review, to delay the
108 effective date, or to disapprove and annul a rule are subsequently held
109 unconstitutional, then the grant of rulemaking authority and any rule proposed
110 or adopted after August 28, 2008, shall be invalid and void.

111 [9.] 10. Pursuant to section 23.253 of the Missouri sunset act:

112 (1) The provisions of the new program authorized under this section shall
113 automatically sunset six years after August 28, [2008] **2013**, unless reauthorized
114 by an act of the general assembly; and

115 (2) If such program is reauthorized, the program authorized under this
116 section shall automatically sunset twelve years after the effective date of the
117 reauthorization of this section; and

118 (3) This section shall terminate on December thirty-first of the calendar
119 year immediately following the calendar year in which the program authorized
120 under this section is sunset.

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