

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 1413

98TH GENERAL ASSEMBLY

4781H.02P

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 142.028 and 142.029, RSMo, and to enact in lieu thereof two new sections relating to the Missouri qualified fuel ethanol producer incentive fund, with an emergency clause.

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

Section A. Sections 142.028 and 142.029, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 142.028 and 142.029, to read as follows:

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

2 (1) "Fuel ethanol", a fuel which meets ASTM International specification number D 4806  
3 or subsequent specifications for blending with gasoline for use as automotive spark-ignition  
4 engine fuel and where the ethanol is made from cereal grains, cereal grain by-products, or  
5 qualified biomass;

6 (2) "Fuel ethanol blends", a mixture of ninety percent gasoline and ten percent fuel  
7 ethanol in which the gasoline portion of the blend or the finished blend meets the ASTM  
8 International specification number D 4814;

9 (3) "Missouri qualified fuel ethanol producer", any producer of fuel ethanol whose  
10 principal place of business and facility for the fermentation and distillation of fuel ethanol is  
11 located within the state of Missouri and is at least fifty-one percent owned by agricultural  
12 producers actively engaged in agricultural production for commercial purposes, and which has  
13 made formal application, posted a bond, and conformed to the requirements of this section;

14 (4) "Professional forester", any individual who holds a bachelor of science degree in  
15 forestry from a regionally accredited college or university with a minimum of two years of  
16 professional forest management experience;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (5) "Qualified biomass", any wood-derived organic material harvested in accordance  
18 with a site specific forest management plan focused for long-term forest sustainability developed  
19 by a professional forester and qualified, in consultation with the conservation commission, by  
20 the Missouri agricultural and small business development authority.

21 2. The "Missouri Qualified Fuel Ethanol Producer Incentive Fund" is hereby created and  
22 subject to appropriations shall be used to provide economic subsidies to Missouri qualified fuel  
23 ethanol producers pursuant to this section. The director of the department of agriculture shall  
24 administer the fund pursuant to this section.

25 3. A Missouri qualified fuel ethanol producer shall be eligible for a monthly grant from  
26 the fund, except that a Missouri qualified fuel ethanol producer shall only be eligible for the  
27 grant for a total of sixty months unless such producer during those sixty months failed, due to  
28 a lack of appropriations, to receive the full amount from the fund for which they were eligible,  
29 in which case such producers shall continue to be eligible for up to twenty-four additional  
30 months or until they have received the maximum amount of funding for which they were eligible  
31 during the original sixty-month time period. The amount of the grant is determined by  
32 calculating the estimated gallons of qualified fuel ethanol production to be produced from  
33 Missouri agricultural products or qualified biomass for the succeeding calendar month, as  
34 certified by the department of agriculture, and applying such figure to the per-gallon incentive  
35 credit established in this subsection. Each Missouri qualified fuel ethanol producer shall be  
36 eligible for a total grant in any fiscal year equal to twenty cents per gallon for the first twelve and  
37 one-half million gallons of qualified fuel ethanol produced from Missouri agricultural products  
38 or qualified biomass in the fiscal year plus five cents per gallon for the next twelve and one-half  
39 million gallons of qualified fuel ethanol produced from Missouri agricultural products or  
40 qualified biomass in the fiscal year. All such qualified fuel ethanol produced by a Missouri  
41 qualified fuel ethanol producer in excess of twenty-five million gallons shall not be applied to  
42 the computation of a grant pursuant to this subsection. The department of agriculture shall pay  
43 all grants for a particular month by the fifteenth day after receipt and approval of the application  
44 described in subsection 4 of this section. If actual production of qualified fuel ethanol during a  
45 particular month either exceeds or is less than that estimated by a Missouri qualified fuel ethanol  
46 producer, the department of agriculture shall adjust the subsequent monthly grant by paying  
47 additional amount or subtracting the amount in deficiency by using the calculation described in  
48 this subsection.

49 4. In order for a Missouri qualified fuel ethanol producer to obtain a grant from the fund  
50 for a particular month, an application for such funds shall be received no later than fifteen days  
51 prior to the first day of the month for which the grant is sought. The application shall include:

52 (1) The location of the Missouri qualified fuel ethanol producer;

53 (2) The average number of citizens of Missouri employed by the Missouri qualified fuel  
54 ethanol producer in the preceding quarter, if applicable;

55 (3) The number of bushels of Missouri agricultural commodities or green weight tons  
56 of qualified biomass used by the Missouri qualified fuel ethanol producer in the production of  
57 fuel ethanol in the preceding quarter;

58 (4) The number of gallons of qualified fuel ethanol the producer expects to manufacture  
59 during the month for which the grant is applied;

60 (5) A copy of the qualified fuel ethanol producer license required pursuant to subsection  
61 5 of this section, name and address of surety company, and amount of bond to be posted pursuant  
62 to subsection 5 of this section; and

63 (6) Any other information deemed necessary by the department of agriculture to  
64 adequately ensure that such grants shall be made only to Missouri qualified fuel ethanol  
65 producers.

66 5. The director of the department of agriculture, in consultation with the department of  
67 revenue and the department of conservation, shall promulgate rules and regulations necessary  
68 for the administration of the provisions of this section. The director shall also establish  
69 procedures for bonding Missouri qualified fuel ethanol producers. Each Missouri qualified fuel  
70 ethanol producer who attempts to obtain moneys pursuant to this section shall be bonded in an  
71 amount not to exceed the estimated maximum monthly grant to be issued to such Missouri  
72 qualified fuel ethanol producer.

73 6. Any rule or portion of a rule, as that term is defined in section 536.010, that is created  
74 under the authority delegated in this section shall become effective only if it complies with and  
75 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section  
76 and chapter 536 are nonseverable and if any of the powers vested with the general assembly  
77 pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule  
78 are subsequently held unconstitutional, then the grant of rulemaking authority and any rule  
79 proposed or adopted after August 28, 2002, shall be invalid and void.

80 7. Notwithstanding any other provision of this section to the contrary, beginning January  
81 1, 2009, through December 31, [2019] **2020**, the economic subsidies provided under this section  
82 to Missouri qualified fuel ethanol producers of fuel ethanol made from qualified biomass shall  
83 only be provided to two qualified fuel ethanol producers and shall not cumulatively exceed seven  
84 and one-half million dollars per qualified fuel ethanol producer. Prior to January 1, 2009, and  
85 after December 31, [2019] **2020**, Missouri qualified fuel ethanol producers of fuel ethanol made  
86 from qualified biomass shall be ineligible for economic subsidies under this section.

142.029. Section 142.028 shall expire on December 31, [2015] **2020**.

Section B. Because immediate action is necessary to encourage economic development  
2 in rural areas of the state through the production of renewable fuels, the repeal and reenactment  
3 of sections 142.028 and 142.029 of section A of this act is deemed necessary for the immediate  
4 preservation of the public health, welfare, peace, and safety, and is hereby declared to be an  
5 emergency act within the meaning of the constitution, and the repeal and reenactment of sections  
6 142.028 and 142.029 of section A of this act shall be in full force and effect upon its passage and  
7 approval.

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