

FIRST REGULAR SESSION

# SENATE BILL NO. 461

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOLSMAN.

Read 1st time February 23, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

2114S.011

## AN ACT

To repeal section 135.710, RSMo, and to enact in lieu thereof one new section relating to tax credits for operating certain alternative fuel refueling properties.

*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Section A. Section 135.710, RSMo, is repealed and one new section  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 fuel vehicle refueling property", property in this state  
3 owned by an eligible applicant and used for storing alternative fuels and for  
4 dispensing such alternative fuels into fuel tanks of motor vehicles owned by such  
5 eligible applicant or private citizens;

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

8 (a) Ethanol;

9 (b) Natural gas;

10 (c) Compressed natural gas, or CNG;

11 (d) Liquefied natural gas, or LNG;

12 (e) Liquefied petroleum gas, or LP gas, propane, or autogas;

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

15 (g) Hydrogen;

16 (3) "Department", the department of economic development;

17 (4) "Electric vehicle recharging property", property in this state owned by  
18 an eligible applicant and used for recharging electric motor vehicles owned by  
19 such eligible applicant or private citizens;

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

20 (5) "Eligible applicant", a business entity or private citizen that is the  
21 owner of an electric vehicle recharging property or an alternative fuel vehicle  
22 refueling property;

23 (6) "Qualified Missouri contractor", a contractor whose principal place of  
24 business is located in Missouri and has been located in Missouri for a period of  
25 not less than five years;

26 (7) "Qualified property", an electric vehicle recharging property or an  
27 alternative fuel vehicle refueling property which, if constructed after August 28,  
28 2014, was constructed with at least fifty-one percent of the costs being paid to  
29 qualified Missouri contractors for the:

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

32 (b) Construction of such facility; and

33 (c) General maintenance of such facility during the time period in which  
34 such facility receives any tax credit under this section.

35 If no qualified Missouri contractor is located within seventy-five miles of the  
36 property, the requirement that fifty-one percent of the costs shall be paid to  
37 qualified Missouri contractors shall not apply.

38 2. For all tax years beginning on or after January 1, 2015, but before  
39 January 1, [2018] **2024**, any eligible applicant who installs and operates a  
40 qualified property shall be allowed a credit against the tax otherwise due under  
41 chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265,  
42 or due under chapter 147 or chapter 148 for any tax year in which the applicant  
43 is constructing the qualified property. The credit allowed in this section per  
44 eligible applicant who is a private citizen shall not exceed fifteen hundred dollars  
45 or per eligible applicant that is a business entity shall not exceed the lesser of  
46 twenty thousand dollars or twenty percent of the total costs directly associated  
47 with the purchase and installation of any alternative fuel storage and dispensing  
48 equipment or any recharging equipment on any qualified property, which shall  
49 not include the following:

50 (1) Costs associated with the purchase of land upon which to place a  
51 qualified property;

52 (2) Costs associated with the purchase of an existing qualified property;

53 or

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

55 3. Tax credits allowed by this section shall be claimed by the eligible

56 applicant at the time such applicant files a return for the tax year in which the  
57 storage and dispensing or recharging facilities were placed in service at a  
58 qualified property, and shall be applied against the income tax liability imposed  
59 by chapter 143, chapter 147, or chapter 148 after all other credits provided by law  
60 have been applied. The cumulative amount of tax credits which may be claimed  
61 by eligible applicants claiming all credits authorized in this section shall not  
62 exceed one million dollars in any calendar year, subject to appropriations.

63 4. If the amount of the tax credit exceeds the eligible applicant's tax  
64 liability, the difference shall not be refundable. Any amount of credit that an  
65 eligible applicant is prohibited by this section from claiming in a taxable year  
66 may be carried forward to any of such applicant's two subsequent taxable  
67 years. Tax credits allowed under this section may be assigned, transferred, sold,  
68 or otherwise conveyed.

69 5. Any qualified property, for which an eligible applicant receives tax  
70 credits under this section, which ceases to sell alternative fuel or recharge electric  
71 vehicles shall cause the forfeiture of such eligible applicant's tax credits provided  
72 under this section for the taxable year in which the qualified property ceased to  
73 sell alternative fuel or recharge electric vehicles and for future taxable years with  
74 no recapture of tax credits obtained by an eligible applicant with respect to such  
75 applicant's tax years which ended before the sale of alternative fuel or recharging  
76 of electric vehicles ceased.

77 6. The director of revenue shall establish the procedure by which the tax  
78 credits in this section may be claimed, and shall establish a procedure by which  
79 the cumulative amount of tax credits is apportioned equally among all eligible  
80 applicants claiming the credit. To the maximum extent possible, the director of  
81 revenue shall establish the procedure described in this subsection in such a  
82 manner as to ensure that eligible applicants can claim all the tax credits possible  
83 up to the cumulative amount of tax credits available for the taxable year. No  
84 eligible applicant claiming a tax credit under this section shall be liable for any  
85 interest or penalty for filing a tax return after the date fixed for filing such return  
86 as a result of the apportionment procedure under this subsection.

87 7. Any eligible applicant desiring to claim a tax credit under this section  
88 shall submit the appropriate application for such credit with the  
89 department. The application for a tax credit under this section shall include any  
90 information required by the department. The department shall review the  
91 applications and certify to the department of revenue each eligible applicant that

92 qualifies for the tax credit.

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

103           9. The provisions of section 23.253 of the Missouri sunset act  
104 notwithstanding:

105           (1) The provisions of the new program authorized under this section shall  
106 [automatically sunset three years after] **be reauthorized as of August 28,**  
107 **2017, and shall expire on** December 31, [2014] **2023**, unless reauthorized by  
108 an act of the general assembly; and

109           (2) [If such program is reauthorized, the program authorized under this  
110 section shall automatically sunset six years after the effective date of the  
111 reauthorization of this section; and

112           (3)] This section shall terminate on December thirty-first of the calendar  
113 year immediately following the calendar year in which the program authorized  
114 under this section is sunset; and

115           [(4)] **(3)** The provisions of this subsection shall not be construed to limit  
116 or in any way impair the department's ability to redeem tax credits authorized  
117 on or before the date the program authorized under this section expires or a  
118 taxpayer's ability to redeem such tax credits.

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