

SENATE BILL NO. 805

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOSKINS.

3069S.02I

ADRIANE D. CROUSE, Secretary

AN ACT

To amend chapter 135, RSMo, by adding thereto two new sections relating to tax credits for biodiesel fuels.

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

Section A. Chapter 135, RSMo, is amended by adding thereto
2 two new sections, to be known as sections 135.775 and 135.778,
3 to read as follows:

135.775. 1. For the purposes of this section, the
2 following terms shall mean:

3 (1) "Biodiesel blend", a blend of diesel fuel and
4 biodiesel fuel of at least five percent and not more than
5 twenty percent for on-road and off-road diesel-fueled
6 vehicle use. Biodiesel blend shall comply with the ASTM
7 International specification D7467-19, or the most recent
8 specifications;

9 (2) "Biodiesel fuel", a renewable, biodegradable, mono
10 alkyl ester combustible liquid fuel that is derived from
11 agricultural and other plant oils or animal fats and that
12 meets the ASTM International specification D6751-19, or the
13 most recent specification, for Biodiesel Fuel (B100) or
14 (B99) Blend Stock for Distillate Fuels. Biodiesel produced
15 from palm oil is not biodiesel fuel for the purposes of this
16 section, unless the palm oil is contained within waste oil
17 and grease collected within the United States;

18 (3) "Department", the Missouri department of revenue;

19 (4) "Retail dealer", a person that owns or operates a
20 retail service station;

21 (5) "Retail service station", a location from which
22 biodiesel blend is sold to the general public and is
23 dispensed directly into motor vehicle fuel tanks for
24 consumption.

25 2. For all tax years beginning on or after January 1,
26 2023, a retail dealer that sells a biodiesel blend at a
27 retail service station shall be allowed a tax credit to be
28 taken against the retail dealer's state income tax
29 liability. The amount of the credit shall be equal to:

30 (1) Two cents per gallon of biodiesel blend of at
31 least five percent but not more than ten percent sold by the
32 retail dealer at a retail service station during the tax
33 year in which the tax credit is claimed; and

34 (2) Five cents per gallon of biodiesel blend in excess
35 of ten percent sold by the retail dealer at a retail service
36 station during the tax year in which the tax credit is
37 claimed.

38 3. Tax credits authorized pursuant to this section
39 shall not be transferred, sold, or assigned. If the amount
40 of the tax credit exceeds the taxpayer's state tax
41 liability, the difference shall be refundable. The total
42 amount of tax credits authorized pursuant to this section
43 for any given fiscal year shall not exceed sixteen million
44 dollars.

45 4. In the event the total amount of tax credits
46 claimed pursuant to this section exceeds the amount of
47 available tax credits, the tax credits shall be apportioned
48 equally to all eligible retail dealers claiming a tax credit
49 by April fifteenth of the fiscal year in which the tax
50 credit is claimed.

51 5. The tax credit allowed by this section shall be
52 claimed by such taxpayer at the time such taxpayer files a
53 return and shall be applied against the income tax liability
54 imposed by chapter 143 after reduction for all other credits
55 allowed thereon. The department may require any
56 documentation it deems necessary to implement the provisions
57 of this section.

58 6. The department may work with the division of
59 weights and measures within the department of agriculture to
60 validate that the biodiesel blend a retail dealer claims for
61 the tax credit authorized pursuant to this section contains
62 a sufficient percentage of biodiesel fuel.

63 7. The department shall promulgate rules to implement
64 the provisions of this section. Any rule or portion of a
65 rule, as that term is defined in section 536.010, that is
66 created pursuant to the authority delegated in this section
67 shall become effective only if it complies with and is
68 subject to all of the provisions of chapter 536 and, if
69 applicable, section 536.028. This section and chapter 536
70 are nonseverable and if any of the powers vested with the
71 general assembly pursuant to chapter 536 to review, to delay
72 the effective date, or to disapprove and annul a rule are
73 subsequently held unconstitutional, then the grant of
74 rulemaking authority and any rule proposed or adopted after
75 August 28, 2022, shall be invalid and void.

76 8. Pursuant to section 23.253 of the Missouri sunset
77 act:

78 (1) The provisions of this section shall automatically
79 sunset on December 31, 2028, unless reauthorized by an act
80 of the general assembly;

81 (2) If such program is reauthorized, the program
82 authorized pursuant to this section shall automatically

83 sunset twelve years after the effective date of the
84 reauthorization of this section; and

85 (3) This section shall terminate on September first of
86 the calendar year immediately following the calendar year in
87 which the program authorized pursuant to this section is
88 sunset.

135.778. 1. For the purposes of this section, the
2 following terms shall mean:

3 (1) "Biodiesel fuel", a renewable, biodegradable, mono
4 alkyl ester combustible liquid fuel that is derived from
5 agricultural and other plant oils or animal fats and that
6 meets the ASTM International specification D6751-19, or the
7 most recent specification, for Biodiesel Fuel (B100) or
8 (B99) Blend Stock for Distillate Fuels. Biodiesel produced
9 from palm oil is not biodiesel fuel for the purposes of this
10 section, unless the palm oil is contained within waste oil
11 and grease collected within the United States;

12 (2) "Missouri biodiesel producer", a facility that
13 produces biodiesel fuel, is registered with the United
14 States Environmental Protection Agency according to the
15 requirements of 40 CFR 79, has begun construction on such
16 facility or has been selling biodiesel fuel produced at such
17 facility on or before August 28, 2022, and:

18 (a) Is at least fifty-one percent owned by
19 agricultural producers who are residents of this state and
20 who are actively engaged in agricultural production for
21 commercial purposes; or

22 (b) At least eighty percent of the feedstock used by
23 the facility originates in the state of Missouri. For
24 purposes for this section, "feedstock" means an
25 agricultural, horticultural, viticultural, vegetable,

26 aquacultural, livestock, forestry, or poultry product either
27 in its natural or processed state;

28 (3) "Department", the Missouri department of revenue.

29 2. (1) For all tax years beginning on or after
30 January 1, 2023, a Missouri biodiesel producer shall be
31 allowed a tax credit to be taken against their state income
32 tax liability. The amount of the tax credit shall be two
33 cents per gallon of biodiesel fuel produced by the Missouri
34 biodiesel producer.

35 (2) A biodiesel producer that is not a Missouri
36 biodiesel producer because it does not meet the provisions
37 of paragraph (a) or (b) of subdivision (2) of subsection 1
38 of this section may claim a prorated tax credit equal to the
39 following:

40 (a) For a biodiesel producer for which at least
41 seventy percent but less than eighty percent of its
42 feedstock originates in the state of Missouri, the tax
43 credit shall equal one and one-half cents per gallon of
44 biodiesel fuel produced;

45 (b) For a biodiesel producer for which at least sixty
46 percent but less than seventy percent of its feedstock
47 originates in the state of Missouri, the tax credit shall
48 equal one cent per gallon of biodiesel fuel produced; and

49 (c) For a biodiesel producer for which at least fifty
50 percent but less than sixty percent of its feedstock
51 originates in the state of Missouri, the tax credit shall
52 equal one-half cent per gallon of biodiesel fuel produced.

53 3. Tax credits authorized pursuant to this section
54 shall not be transferred, sold, or assigned. If the amount
55 of the tax credit exceeds the taxpayer's state tax
56 liability, the difference shall be refundable. The total
57 amount of tax credits authorized pursuant to this section

58 for any given fiscal year shall not exceed four million
59 dollars.

60 4. In the event the total amount of tax credits
61 claimed pursuant to this section exceeds the amount of
62 available tax credits, the tax credits shall be apportioned
63 equally to all eligible Missouri biodiesel producers
64 claiming the credit by April fifteenth of the fiscal year in
65 which the tax credit is claimed.

66 5. The tax credit authorized pursuant to this section
67 shall be claimed by such taxpayer at the time such taxpayer
68 files a return and shall be applied against the income tax
69 liability imposed by chapter 143 after reduction for all
70 other credits allowed thereon. The department may require
71 any documentation it deems necessary to implement the
72 provisions of this section.

73 6. The department may work with the department of
74 agriculture to validate that the biodiesel fuel and
75 feedstock meet the requirements for the tax credit
76 authorized pursuant to this section.

77 7. The department shall promulgate rules to implement
78 the provisions of this section. Any rule or portion of a
79 rule, as that term is defined in section 536.010, that is
80 created pursuant to the authority delegated in this section
81 shall become effective only if it complies with and is
82 subject to all of the provisions of chapter 536 and, if
83 applicable, section 536.028. This section and chapter 536
84 are nonseverable and if any of the powers vested with the
85 general assembly pursuant to chapter 536 to review, to delay
86 the effective date, or to disapprove and annul a rule are
87 subsequently held unconstitutional, then the grant of
88 rulemaking authority and any rule proposed or adopted after
89 August 28, 2022, shall be invalid and void.

90 8. Pursuant to section 23.253 of the Missouri sunset
91 act:

92 (1) The provisions of this section shall automatically
93 sunset on December 31, 2028, unless reauthorized by an act
94 of the general assembly;

95 (2) If such program is reauthorized, the program
96 authorized pursuant to this section shall automatically
97 sunset twelve years after the effective date of the
98 reauthorization of this section; and

99 (3) This section shall terminate on September first of
100 the calendar year immediately following the calendar year in
101 which the program authorized pursuant to this section is
102 sunset.

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