

1 SENATE BILL NO. 34

2 INTRODUCED BY J. COHENOUR

3 BY REQUEST OF THE REVENUE INTERIM COMMITTEE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING REPORTING REQUIREMENTS FOR THE BIODIESEL
6 BLENDING AND STORAGE TAX CREDIT; AND AMENDING SECTION 15-32-703, MCA."7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:9
10 **Section 1.** Section 15-32-703, MCA, is amended to read:11 **"15-32-703. Biodiesel blending and storage tax credit -- recapture -- report to interim**
12 **committee.** (1) An individual, corporation, partnership, or small business corporation, as defined in 15-30-3301,
13 may receive a credit against taxes imposed by Title 15, chapter 30 or 31, for the costs of investments in
14 depreciable property used for storing or blending biodiesel with petroleum diesel for sale.15 (2) Subject to subsection (4), a special fuel distributor or an owner or operator of a motor fuel outlet
16 qualifying for a credit under this section is entitled to claim a credit, as provided in subsection (3), for the costs
17 described in subsection (1) incurred in the 2 tax years before the taxpayer begins blending biodiesel fuel for
18 sale or in any tax year in which the taxpayer is blending biodiesel fuel for sale.19 (3) (a) The total amount of the credits for all years that may be claimed by a distributor under this
20 section is 15% of the costs described in subsection (1), up to a total of \$52,500.21 (b) The total amount of the credits for all years that may be claimed by an owner or operator of a
22 motor fuel outlet under this section is 15% of the costs described in subsection (1), up to a total of \$7,500.23 (4) The following requirements must also be met for a taxpayer to be entitled to a tax credit under this
24 section:25 (a) The investment must be for depreciable property used primarily to blend petroleum diesel with
26 biodiesel made entirely from Montana-produced feedstocks.27 (b) Sales of biodiesel must be at least 2% of the taxpayer's total diesel sales by the end of the third
28 year following the initial tax year in which the credit is initially claimed.

1 (c) (i) The taxpayer claiming a credit must be a person who as an owner, including a contract
2 purchaser or lessee, or who pursuant to an agreement owns, leases, or has a beneficial interest in a business
3 that blends biodiesel.

4 (ii) If more than one person has an interest in a business with qualifying property, they may allocate all
5 or any part of the investment cost among themselves and their successors or assigns.

6 (d) The business must be owned or leased during the tax year by the taxpayer claiming the credit,
7 except as otherwise provided in subsection (4)(c), and, except for the 2 tax-year period claimed in subsection
8 (2), must have been blending biodiesel during the tax year for which the credit is claimed.

9 (5) The credit provided by this section is not in lieu of any depreciation or amortization deduction for
10 the investment or other tax incentive to which the taxpayer otherwise may be entitled under Title 15.

11 (6) A tax credit allowable under this section that is not completely used by the taxpayer in the tax year
12 in which the credit is initially claimed may be carried forward for credit against the taxpayer's tax liability for any
13 succeeding tax year until the total amount of the credit has been deducted from tax liability. However, a credit
14 may not be carried forward to any tax year in which the facility is not blending biodiesel or storing biodiesel for
15 blending or beyond the 7th tax year after the tax year for which the credit was initially claimed. If a facility for
16 which a credit is claimed ceases blending of biodiesel with petroleum diesel for sale for a period of 12
17 continuous months within 5 years after the initial claiming of a credit under this section or within 5 years after a
18 year in which the credit was carried forward or if the taxpayer claiming the credit fails to satisfy the conditions of
19 subsection (4)(b), the total credit is subject to recapture. The person claiming the credit is liable for the total
20 amount of the credit in the event of recapture.

21 (7) The taxpayer's adjusted basis for determining gain or loss may not be further decreased by any
22 tax credits allowed under this section.

23 (8) If the taxpayer is a shareholder of an electing small business corporation, the credit must be
24 computed using the shareholder's pro rata share of the corporation's cost of investing in the biodiesel blending
25 facility. In all other respects, the allowance and effect of the tax credit apply to the corporation as otherwise
26 provided by law.

27 (9) As used in this section, "biodiesel" has the meaning provided in 15-70-401.

28 (10) The department shall report to the ~~transportation-revenue~~ interim committee biennially, in

1 accordance with 5-11-210, regarding the number and type of taxpayers claiming the credit under this section,
2 the total amount of the credit claimed, and the department's cost associated with administering the credit."

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