

SECOND REGULAR SESSION

# SENATE BILL NO. 990

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY SENATORS CAUTHORN, KLINDT, FOSTER, CHILDERS AND STEELMAN.

Read 1st time January 21, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

4100S.031

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### AN ACT

To amend chapter 142, RSMo, by adding thereto one new section relating to biodiesel fuel.

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

Section A. Chapter 142, RSMo, is amended by adding thereto one new section, to be known as section 142.031, to read as follows:

**142.031. 1. As used in this section the following terms shall mean:**

**(1) "Biodiesel", fuel as defined in ASTM Standard D-6751 or its subsequent standard specifications for biodiesel fuel (B100) blend stock for distillate fuels;**

**(2) "Qualified biodiesel producer", a facility that produces biodiesel, is registered with the United States Environmental Protection Agency according to the requirements of 40 CFR 79, and at least fifty-one percent is owned by agricultural producers actively engaged in agricultural production for commercial purposes.**

**2. The "Missouri Qualified Biodiesel Producer Incentive Fund" is hereby created and subject to appropriations shall be used to provide economic subsidies to Missouri qualified biodiesel producers pursuant to this section. The director of the department of agriculture shall administer the fund pursuant to this section.**

**3. A Missouri qualified biodiesel producer shall be eligible for a quarterly grant from the fund, except that a Missouri qualified biodiesel producer shall only be eligible for the grant for a total of twenty quarters. The amount of the grant is determined by calculating the estimated gallons of qualified biodiesel production to be produced from Missouri agricultural products for the succeeding quarter, as certified by the department of agriculture, and applying such figure to the per-gallon incentive credit established in this subsection. At the beginning of each quarter, the previous**

quarter's grant shall be reconciled against the actual gallons produced within ten days of the end of the quarter. If the number of gallons of biodiesel produced is greater than the number of gallons estimated for the previous quarter, the qualified biodiesel producer shall receive an amount equal to thirty cents per gallon for each gallon produced in excess of the original estimate. If the number of gallons of biodiesel produced is less than the number of gallons estimated for the previous quarter, the qualified biodiesel producer shall return an amount equal to thirty cents per gallon for every gallon overestimated. The overestimated or underestimated amount of gallons of biodiesel produced shall be offset against the succeeding quarter's estimated amount. If an application for a grant pursuant to this section is not received for the succeeding quarter the overestimated or underestimated amount shall be paid by the obligated party within thirty days of the reconciliation. Each Missouri qualified biodiesel producer shall be eligible for a total grant in any calendar year equal to thirty cents per gallon for up to fifteen million gallons of qualified biodiesel produced from Missouri agricultural products in the calendar year. The department of agriculture shall pay all grants for a particular quarter within fifteen days after receipt and approval of the application described in subsection 4 of this section.

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

- (1) The location of the Missouri qualified biodiesel producer;
- (2) The average number of citizens of Missouri employed by the Missouri qualified biodiesel producer in the preceding quarter, if applicable;
- (3) The number of bushel equivalents of Missouri agricultural commodities used by the Missouri qualified biodiesel producer in the production of biodiesel in the preceding quarter;
- (4) The number of gallons of qualified biodiesel the producer expects to manufacture during the quarter for which the grant is applied;
- (5) A copy of the qualified biodiesel producer license required pursuant to subsection 5 of this section, name and address of surety company, and amount of bond to be posted pursuant to subsection 5 of this section; and
- (6) Any other information deemed necessary by the department of agriculture to adequately ensure that such grants shall be made only to Missouri qualified biodiesel producers.

5. The director of the department of agriculture, in consultation with the

**department of revenue, shall promulgate rules and regulations necessary for the administration of the provisions of this section. The director shall also establish procedures for bonding Missouri qualified biodiesel producers. Each Missouri qualified biodiesel producer who attempts to obtain moneys pursuant to this section shall be bonded in an amount not to exceed the estimated maximum quarterly grant to be issued to such Missouri qualified biodiesel producer.**

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

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