

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 147
93RD GENERAL ASSEMBLY

Reported from the Committee on Agriculture, Conservation, Parks and Natural Resources, February 17, 2005, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 147, adopted February 28, 2005.

Taken up for Perfection February 28, 2005. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

0775S.02P

AN ACT

To repeal section 142.031, RSMo, and to enact in lieu thereof one new section relating to the Missouri qualified biodiesel producer incentive fund.

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

Section A. Section 142.031, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 142.031, to read as follows: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 with funds, other than general revenue funds] **appropriation**, **and** 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 monthly grant from the fund, except that a Missouri qualified biodiesel producer shall only be eligible for the grant for a total of sixty months **unless such producers during those sixty months failed, due to a lack of appropriations, to receive the full amount from the fund for**

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

which they were eligible, in which case such producers shall continue to be eligible for up to twenty-four additional months or until they have received the maximum amount of funding for which they were eligible during the original sixty-month time period. The amount of the grant is determined by calculating the estimated gallons of qualified biodiesel produced during the preceding month from Missouri agricultural products, as certified by the department of agriculture, and applying such figure to the per-gallon incentive credit established in this subsection. Each Missouri qualified biodiesel producer shall be eligible for a total grant in any fiscal year equal to thirty cents per gallon for the first fifteen million gallons of qualified biodiesel produced from Missouri agricultural products in the fiscal year **plus ten cents per gallon for the next fifteen million gallons of qualified biodiesel produced from Missouri agricultural products in the fiscal year.** All such qualified biodiesel produced by a Missouri qualified biodiesel producer in excess of [fifteen] **thirty million** gallons shall not be applied to the computation of a grant pursuant to this subsection. The department of agriculture shall pay all grants for a particular month by the fifteenth day 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, an application for such funds shall be received no later than fifteen days following the last day of the month 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 month, 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 month;
- (4) The number of gallons of qualified biodiesel the producer manufactures during the month 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.

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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