

FIRST REGULAR SESSION

# SENATE BILL NO. 499

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS ENGLER AND CLEMENS.

Read 1st time February 13, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

2178S.011

## AN ACT

To repeal section 142.028, RSMo, and to enact in lieu thereof one new section relating to qualified bio-mass.

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

Section A. Section 142.028, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 142.028, to read as follows:

142.028. 1. As used in this section, the following terms mean:

2 (1) "Fuel ethanol", one hundred ninety-eight proof ethanol denatured in  
3 conformity with the United States Bureau of Alcohol, Tobacco and Firearms'  
4 regulations and fermented and distilled in a facility whose principal (over fifty  
5 percent) feed stock is cereal grain or cereal grain by-products;

6 (2) "Fuel ethanol blends", a mixture of ninety percent gasoline and ten  
7 percent fuel ethanol in which the gasoline portion of the blend or the finished  
8 blend meets the American Society for Testing and Materials - specification  
9 number D-439;

10 (3) "Missouri qualified fuel ethanol producer", any producer of fuel ethanol  
11 whose principal place of business and facility for the fermentation and distillation  
12 of fuel ethanol is located within the state of Missouri and is at least fifty-one  
13 percent owned by agricultural producers actively engaged in agricultural  
14 production for commercial purposes, and which has made formal application,  
15 posted a bond, and conformed to the requirements of this section;

16 (4) "Qualified bio-mass", any agriculturally derived organic  
17 material or any wood-derived organic material qualified, in  
18 consultation with the conservation commission, by the agricultural and  
19 small business development authority.

20 2. The "Missouri Qualified Fuel Ethanol Producer Incentive Fund" is

21 hereby created and subject to appropriations shall be used to provide economic  
22 subsidies to Missouri qualified fuel ethanol producers pursuant to this  
23 section. The director of the department of agriculture shall administer the fund  
24 pursuant to this section.

25           3. A Missouri qualified fuel ethanol producer shall be eligible for a  
26 monthly grant from the fund, except that a Missouri qualified fuel ethanol  
27 producer shall only be eligible for the grant for a total of sixty months unless  
28 such producer during those sixty months failed, due to a lack of appropriations,  
29 to receive the full amount from the fund for which they were eligible, in which  
30 case such producers shall continue to be eligible for up to twenty-four additional  
31 months or until they have received the maximum amount of funding for which  
32 they were eligible during the original sixty-month time period. The amount of the  
33 grant is determined by calculating the estimated gallons of qualified fuel ethanol  
34 production to be produced from Missouri agricultural products **or qualified bio-**  
35 **mass** for the succeeding calendar month, as certified by the department of  
36 agriculture, and applying such figure to the per-gallon incentive credit  
37 established in this subsection. Each Missouri qualified fuel ethanol producer  
38 shall be eligible for a total grant in any fiscal year equal to twenty cents per  
39 gallon for the first twelve and one-half million gallons of qualified fuel ethanol  
40 produced from Missouri agricultural products **or qualified bio-mass** in the  
41 fiscal year plus five cents per gallon for the next twelve and one-half million  
42 gallons of qualified fuel ethanol produced from Missouri agricultural products **or**  
43 **qualified bio-mass** in the fiscal year. All such qualified fuel ethanol produced  
44 by a Missouri qualified fuel ethanol producer in excess of twenty-five million  
45 gallons shall not be applied to the computation of a grant pursuant to this  
46 subsection. The department of agriculture shall pay all grants for a particular  
47 month by the fifteenth day after receipt and approval of the application described  
48 in subsection 4 of this section. If actual production of qualified fuel ethanol  
49 during a particular month either exceeds or is less than that estimated by a  
50 Missouri qualified fuel ethanol producer, the department of agriculture shall  
51 adjust the subsequent monthly grant by paying additional amount or subtracting  
52 the amount in deficiency by using the calculation described in this subsection.

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

- 57 (1) The location of the Missouri qualified fuel ethanol producer;
- 58 (2) The average number of citizens of Missouri employed by the Missouri  
59 qualified fuel ethanol producer in the preceding quarter, if applicable;
- 60 (3) The number of bushels of Missouri agricultural commodities **or green**  
61 **weight tons of qualified bio-mass** used by the Missouri qualified fuel ethanol  
62 producer in the production of fuel ethanol in the preceding quarter;
- 63 (4) The number of gallons of qualified fuel ethanol the producer expects  
64 to manufacture during the month for which the grant is applied;
- 65 (5) A copy of the qualified fuel ethanol producer license required pursuant  
66 to subsection 5 of this section, name and address of surety company, and amount  
67 of bond to be posted pursuant to subsection 5 of this section; and
- 68 (6) Any other information deemed necessary by the department of  
69 agriculture to adequately ensure that such grants shall be made only to Missouri  
70 qualified fuel ethanol producers.

71 5. The director of the department of agriculture, in consultation with the  
72 department of revenue, shall promulgate rules and regulations necessary for the  
73 administration of the provisions of this section. The director shall also establish  
74 procedures for bonding Missouri qualified fuel ethanol producers. Each Missouri  
75 qualified fuel ethanol producer who attempts to obtain moneys pursuant to this  
76 section shall be bonded in an amount not to exceed the estimated maximum  
77 monthly grant to be issued to such Missouri qualified fuel ethanol producer.

78 6. Any rule or portion of a rule, as that term is defined in section 536.010,  
79 RSMo, that is created under the authority delegated in this section shall become  
80 effective only if it complies with and is subject to all of the provisions of chapter  
81 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter  
82 536, RSMo, are nonseverable and if any of the powers vested with the general  
83 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date  
84 or to disapprove and annul a rule are subsequently held unconstitutional, then  
85 the grant of rulemaking authority and any rule proposed or adopted after August  
86 28, 2002, shall be invalid and void.

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