

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 749
94TH GENERAL ASSEMBLY

Reported from the Committee on Ways and Means, February 21, 2008, with recommendation that the Senate Committee Substitute do pass.

3365S.04C

TERRY L. SPIELER, Secretary.

AN ACT

To amend chapters 135 and 143, RSMo, by adding thereto three new sections relating to tax incentives for certain energy uses.

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

Section A. Chapters 135 and 143, RSMo, are amended by adding thereto
2 three new sections, to be known as sections 135.710, 143.114, and 143.128, to
3 read as follows:

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

2 **(1) "Alternative fuels", any motor fuel at least seventy percent of**
3 **the volume of which consists of one or more of the following:**

4 **(a) Ethanol;**

5 **(b) Natural gas;**

6 **(c) Compressed natural gas;**

7 **(d) Liquefied natural gas;**

8 **(e) Liquefied petroleum gas;**

9 **(f) Any mixture of biodiesel and diesel fuel, without regard to**
10 **any use of kerosene;**

11 **(2) "Department", the department of natural resources;**

12 **(3) "Eligible applicant", a business entity that is the owner of a**
13 **qualified alternative fuel vehicle refueling property;**

14 **(4) "Qualified alternative fuel vehicle refueling property",**
15 **property in this state owned by an eligible applicant and used for**
16 **storing alternative fuels and for dispensing such alternative fuels into**
17 **fuel tanks of motor vehicles owned by such eligible applicant or private**
18 **citizens which, if constructed after August 28, 2008, was constructed**
19 **with at least fifty-one percent of the costs being paid to qualified**

20 Missouri contractors for the:

21 (a) Fabrication of pre-manufactured equipment or process piping
22 used in the construction of such facility;

23 (b) Construction of such facility; and

24 (c) General maintenance of such facility during the time period
25 in which such facility receives any tax credit under this section;

26 (5) "Qualified Missouri contractor", a contractor whose principal
27 place of business is located in Missouri and has been located in
28 Missouri for a period of not less than five years.

29 2. For all tax years beginning on or after January 1, 2009, but
30 before January 1, 2012, any eligible applicant who installs and operates
31 a qualified alternative fuel vehicle refueling property shall be allowed
32 a credit against the tax otherwise due under chapter 143, RSMo,
33 excluding withholding tax imposed by sections 143.191 to 143.265,
34 RSMo, or due under chapter 147, RSMo, or chapter 148, RSMo, for any
35 tax year in which the applicant is constructing the refueling
36 property. The credit allowed in this section per eligible applicant shall
37 not exceed the lesser of twenty thousand dollars or twenty percent of
38 the total costs directly associated with the purchase and installation of
39 any alternative fuel storage and dispensing equipment on any qualified
40 alternative fuel vehicle refueling property, which shall not include the
41 following:

42 (1) Costs associated with the purchase of land upon which to
43 place a qualified alternative fuel vehicle refueling property;

44 (2) Costs associated with the purchase of an existing qualified
45 alternative fuel vehicle refueling property; or

46 (3) Costs for the construction or purchase of any structure.

47 3. Tax credits allowed by this section shall be claimed by the
48 eligible applicant at the time such applicant files a return for the tax
49 year in which the storage and dispensing facilities were placed in
50 service at a qualified alternative fuel vehicle refueling property, and
51 shall be applied against the income tax liability imposed by chapter
52 143, RSMo, chapter 147, RSMo, or chapter 148, RSMo, after all other
53 credits provided by law have been applied. The cumulative amount of
54 tax credits which may be claimed by eligible applicants claiming all
55 credits authorized in this section shall not exceed the following
56 amounts:

57 (1) In taxable year 2009, three million dollars;

58 (2) In taxable year 2010, two million dollars; and

59 (3) In taxable year 2011, one million dollars.

60 4. If the amount of the tax credit exceeds the eligible applicant's
61 tax liability, the difference shall not be refundable. Any amount of
62 credit that an eligible applicant is prohibited by this section from
63 claiming in a taxable year may be carried forward to any of such
64 applicant's two subsequent taxable years. Tax credits allowed under
65 this section may be assigned, transferred, sold, or otherwise conveyed.

66 5. An alternative fuel vehicle refueling property, for which an
67 eligible applicant receives tax credits under this section, which ceases
68 to sell alternative fuel shall cause the forfeiture of such eligible
69 applicant's tax credits provided under this section for the taxable year
70 in which the alternative fuel vehicle refueling property ceased to sell
71 alternative fuel and for future taxable years with no recapture of tax
72 credits obtained by an eligible applicant with respect to such
73 applicant's tax years which ended before the sale of alternative fuel
74 ceased.

75 6. The director of revenue shall establish the procedure by which
76 the tax credits in this section may be claimed, and shall establish a
77 procedure by which the cumulative amount of tax credits is
78 apportioned equally among all eligible applicants claiming the credit.
79 To the maximum extent possible, the director of revenue shall establish
80 the procedure described in this subsection in such a manner as to
81 ensure that eligible applicants can claim all the tax credits possible up
82 to the cumulative amount of tax credits available for the taxable year.
83 No eligible applicant claiming a tax credit under this section shall be
84 liable for any interest or penalty for filing a tax return after the date
85 fixed for filing such return as a result of the apportionment procedure
86 under this subsection.

87 7. Any eligible applicant desiring to claim a tax credit under this
88 section shall submit the appropriate application for such credit with
89 the department. The application for a tax credit under this section
90 shall include any information required by the department. The
91 department shall review the applications and certify to the department
92 of revenue each eligible applicant that qualifies for the tax credit.

93 8. The department and the department of revenue may

94 promulgate rules to implement the provisions of this section. Any rule
95 or portion of a rule, as that term is defined in section 536.010, RSMo,
96 that is created under the authority delegated in this section shall
97 become effective only if it complies with and is subject to all of the
98 provisions of chapter 536, RSMo, and, if applicable, section 536.028,
99 RSMo. This section and chapter 536, RSMo, are nonseverable and if any
100 of the powers vested with the general assembly pursuant to chapter
101 536, RSMo, to review, to delay the effective date, or to disapprove and
102 annul a rule are subsequently held unconstitutional, then the grant of
103 rulemaking authority and any rule proposed or adopted after August
104 28, 2008, shall be invalid and void.

105 9. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

106 (1) The provisions of the new program authorized under this
107 section shall automatically sunset six years after the effective date of
108 this section unless reauthorized by an act of the general assembly; and

109 (2) If such program is reauthorized, the program authorized
110 under this section shall automatically sunset twelve years after the
111 effective date of the reauthorization of this section; and

112 (3) This section shall terminate on December thirty-first of the
113 calendar year immediately following the calendar year in which the
114 program authorized under this section is sunset.

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

2 (1) "Motor vehicle", any self-propelled vehicle not operated
3 exclusively upon tracks, except farm tractors;

4 (2) "Qualified hybrid motor vehicle", any motor vehicle licensed
5 under chapter 301, RSMo, and:

6 (a) Which meets the definition of new qualified hybrid motor
7 vehicle in section 30B(d)(3)(A) of the Internal Revenue Code of 1986, as
8 amended;

9 (b) The original use of which commences with the taxpayer; and

10 (c) Which is acquired for use by the taxpayer and not for resale.

11 2. For the tax year beginning on January 1, 2009, any taxpayer
12 who purchases a qualified hybrid vehicle shall be allowed to subtract
13 from the taxpayer's Missouri adjusted gross income to determine
14 Missouri taxable income, for the tax year in which the taxpayer
15 purchases the vehicle, an amount equal to one thousand five hundred
16 dollars or ten percent of the purchase price of the vehicle, whichever

17 is less.

18 **3. The director of revenue shall establish the procedure by which**
19 **the deduction in this section may be claimed, and shall promulgate**
20 **rules to provide for the submission of documents by the taxpayer**
21 **proving the purchase price and date of the qualified hybrid motor**
22 **vehicle and to implement the provisions of this section.**

23 **4. Any rule or portion of a rule, as that term is defined in section**
24 **536.010, RSMo, that is created under the authority delegated in this**
25 **section shall become effective only if it complies with and is subject to**
26 **all of the provisions of chapter 536, RSMo, and, if applicable, section**
27 **536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**
28 **and if any of the powers vested with the general assembly pursuant to**
29 **chapter 536, RSMo, to review, to delay the effective date, or to**
30 **disapprove and annul a rule are subsequently held unconstitutional,**
31 **then the grant of rulemaking authority and any rule proposed or**
32 **adopted after August 28, 2008, shall be invalid and void.**

143.128. 1. For purposes of this section the term "E-85 gasoline"
2 **shall mean ethanol blended gasoline formulated with a minimum**
3 **percentage of between seventy-five and eighty-five percent by volume**
4 **of ethanol, "biodiesel" shall mean fuel as defined in ASTM Standard D-**
5 **6751 or its subsequent standard specifications for biodiesel fuel (B100)**
6 **blend stock for distillate fuels, and "biodiesel-blended fuel" shall mean**
7 **a blend of biodiesel and conventional diesel fuel. For all tax years**
8 **beginning on or after January 1, 2009, a taxpayer who purchases E-85**
9 **gasoline in a tax year shall be allowed to claim a tax credit against the**
10 **tax otherwise due under this chapter, excluding sections 143.191 to**
11 **143.265, in the following amounts:**

12 **(1) For calendar year 2009, the amount of the credit shall be**
13 **equal to twenty-five cents per gallon of E-85 gasoline or equal to five**
14 **cents per gallon of biodiesel or biodiesel-blended fuel purchased by the**
15 **taxpayer;**

16 **(2) For calendar years 2010 and 2011, the amount of the credit**
17 **shall be equal to twenty cents per gallon of E-85 gasoline or equal to**
18 **three cents per gallon of biodiesel or biodiesel-blended fuel purchased**
19 **by the taxpayer;**

20 **(3) For calendar year 2012 and each subsequent calendar year,**
21 **the amount of the credit shall be equal to fifteen cents per gallon of E-**

22 85 gasoline or equal to five cents per gallon of biodiesel or biodiesel-
23 blended fuel purchased by the taxpayer.

24 2. The amount of credits claimed per taxpayer annually shall not
25 exceed five hundred dollars. The minimum amount of tax credits a
26 taxpayer may claim shall not be less than fifty dollars. A taxpayer shall
27 claim the credit allowed by this section at the time such taxpayer files
28 a return. In the event the amount of the tax credit provided under this
29 section exceeds a taxpayer's income tax liability, no refund shall result,
30 but such excess tax credits may be carried forward to any of the
31 taxpayer's three subsequent tax years. The aggregate amount of tax
32 credits which may be redeemed in any fiscal year shall not exceed five
33 hundred thousand dollars. The tax credit shall be available regardless
34 of whether the taxpayer opts to take a standard deduction. The
35 department of revenue is authorized to adopt any rule or regulations
36 deemed necessary for the effective administration of this section. Any
37 rule or portion of a rule, as that term is defined in section 536.010,
38 RSMo, that is created under the authority delegated in this section
39 shall become effective only if it complies with and is subject to all of
40 the provisions of chapter 536, RSMo, and if applicable, section 536.028,
41 RSMo. This section and chapter 536, RSMo, are nonseverable and if any
42 of the powers vested with the general assembly pursuant to chapter
43 536, RSMo, to review, to delay the effective date, or to disapprove and
44 annul a rule are subsequently held unconstitutional, then the grant of
45 rulemaking authority and any rule proposed or adopted after August
46 28, 2008, shall be invalid and void.

47 3. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

48 (1) The provisions of the new program authorized under this
49 section shall sunset automatically six years after the effective date of
50 this section unless reauthorized by an act of the general assembly; and

51 (2) If such program is reauthorized, the program authorized
52 under this section shall sunset automatically twelve years after the
53 effective date of the reauthorization of this section; and

54 (3) This section shall terminate on September first of the
55 calendar year immediately following the calendar year in which the
56 program authorized under this section is sunset.

57 4. Nothing in this section shall be construed as authorizing,
58 approving, or condoning the violation of a motor vehicle

59 **manufacturer's stated warranty with regard to recommended fuel use.**

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