

SECOND REGULAR SESSION

SENATE BILL NO. 722

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR COLEMAN.

Pre-filed December 1, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

3064S.011

AN ACT

To repeal section 142.815, RSMo, and to enact in lieu thereof one new section relating to a tax exemption for motor fuel used for school buses.

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

Section A. Section 142.815, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 142.815, to read as follows:

142.815. 1. Motor fuel used for the following nonhighway purposes is
2 exempt from the fuel tax imposed by this chapter, and a refund may be claimed
3 by the consumer, except as provided for in subsection (1) of this section, if the tax
4 has been paid and no refund has been previously issued:

5 (1) Motor fuel used for nonhighway purposes including fuel for farm
6 tractors or stationary engines owned or leased and operated by any person and
7 used exclusively for agricultural purposes and including, beginning January 1,
8 2006, bulk sales of one hundred gallons or more of gasoline made to farmers and
9 delivered by the ultimate vender to a farm location for agricultural purposes only.
10 As used in this section, the term "farmer" shall mean any person engaged in
11 farming in an authorized farm corporation, family farm, or family farm
12 corporation as defined in section 350.010, RSMo. At the discretion of the ultimate
13 vender, the refund may be claimed by the ultimate vender on behalf of the
14 consumer for sales made to farmers and to persons engaged in construction for
15 agricultural purposes as defined in section 142.800. After December 31, 2000, the
16 refund may be claimed only by the consumer and may not be claimed by the
17 ultimate vender unless bulk sales of gasoline are made to a farmer after January
18 1, 2006, as provided in this subdivision and the farmer provides an exemption
19 certificate to the ultimate vender, in which case the ultimate vender may make

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

20 a claim for refund under section 142.824 but shall be liable for any erroneous
21 refund;

22 (2) Kerosene sold for use as fuel to generate power in aircraft engines,
23 whether in aircraft or for training, testing or research purposes of aircraft
24 engines;

25 (3) Diesel fuel used as heating oil, or in railroad locomotives or any other
26 motorized flanged-wheel rail equipment, or used for other nonhighway purposes
27 other than as expressly exempted pursuant to another provision.

28 2. Subject to the procedural requirements and conditions set out in this
29 chapter, the following uses are exempt from the tax imposed by section 142.803
30 on motor fuel, and a deduction or a refund may be claimed:

31 (1) Motor fuel for which proof of export is available in the form of a
32 terminal-issued destination state shipping paper and which is either:

33 (a) Exported by a supplier who is licensed in the destination state or
34 through the bulk transfer system;

35 (b) Removed by a licensed distributor for immediate export to a state for
36 which all the applicable taxes and fees (however nominated in that state) of the
37 destination state have been paid to the supplier, as a trustee, who is licensed to
38 remit tax to the destination state; or which is destined for use within the
39 destination state by the federal government for which an exemption has been
40 made available by the destination state subject to procedural rules and
41 regulations promulgated by the director; or

42 (c) Acquired by a licensed distributor and which the tax imposed by this
43 chapter has previously been paid or accrued either as a result of being stored
44 outside of the bulk transfer system immediately prior to loading or as a diversion
45 across state boundaries properly reported in conformity with this chapter and was
46 subsequently exported from this state on behalf of the distributor;

47 The exemption pursuant to paragraph (a) of this subdivision shall be claimed by
48 a deduction on the report of the supplier which is otherwise responsible for
49 remitting the tax upon removal of the product from a terminal or refinery in this
50 state. The exemption pursuant to paragraphs (b) and (c) of this subdivision shall
51 be claimed by the distributor, upon a refund application made to the director
52 within three years. A refund claim may be made monthly or whenever the claim
53 exceeds one thousand dollars;

54 (2) Undyed K-1 kerosene sold at retail through dispensers which have
55 been designed and constructed to prevent delivery directly from the dispenser

56 into a vehicle fuel supply tank, and undyed K-1 kerosene sold at retail through
57 nonbarricaded dispensers in quantities of not more than twenty-one gallons for
58 use other than for highway purposes. Exempt use of undyed kerosene shall be
59 governed by rules and regulations of the director. If no rules or regulations are
60 promulgated by the director, then the exempt use of undyed kerosene shall be
61 governed by rules and regulations of the Internal Revenue Service. A distributor
62 or supplier delivering to a retail facility shall obtain an exemption certificate from
63 the owner or operator of such facility stating that its sales conform to the
64 dispenser requirements of this subdivision. A licensed distributor, having
65 obtained such certificate, may provide a copy to his or her supplier and obtain
66 undyed kerosene without the tax levied by section 142.803. Having obtained such
67 certificate in good faith, such supplier shall be relieved of any responsibility if the
68 fuel is later used in a taxable manner. An ultimate vendor who obtained undyed
69 kerosene upon which the tax levied by section 142.803 had been paid and makes
70 sales qualifying pursuant to this subsection may apply for a refund of the tax
71 pursuant to application, as provided in section 142.818, to the director provided
72 the ultimate vendor did not charge such tax to the consumer;

73 (3) Motor fuel sold to the United States or any agency or instrumentality
74 thereof. This exemption shall be claimed as provided in section 142.818;

75 (4) **Motor fuel used solely and exclusively as fuel to propel school**
76 **buses, as such term is defined under subdivision (19) of section 302.010,**
77 **RSMo, on the public roads and highways of this state when leased or**
78 **owned and when being operated by a public school district of this state,**
79 **or leased or owned by a person under contract with such district for**
80 **the provision of bus services for educational purposes. The exemption**
81 **for use under this subdivision shall be made available to the school**
82 **district for whose educational purposes the fuel is consumed, whether**
83 **the fuel was purchased by such school district or by another under a**
84 **contract to provide bus service for such school district, upon a refund**
85 **application stating that the motor fuel was purchased for the exclusive**
86 **use of the school districts.**

87 (5) Motor fuel used solely and exclusively as fuel to propel motor vehicles
88 on the public roads and highways of this state when leased or owned and when
89 being operated by a federally recognized Indian tribe in the performance of
90 essential governmental functions, such as providing police, fire, health or water
91 services. The exemption for use pursuant to this subdivision shall be made

92 available to the tribal government upon a refund application stating that the
93 motor fuel was purchased for the exclusive use of the tribe in performing named
94 essential governmental services;

95 [(5)] **(6)** Motor fuel sold within an Indian reservation or within Indian
96 country by a federally recognized Indian tribe to a member of that tribe and used
97 in motor vehicles owned by a member of the tribe within Indian country. This
98 exemption does not apply to sales within an Indian reservation or within Indian
99 country by a federally recognized Indian tribe to non-Indian consumers or to
100 Indian consumers who are not members of the tribe selling the motor fuel. This
101 exemption shall be administered as provided in section 142.821;

102 [(6)] **(7)** That portion of motor fuel used to operate equipment attached
103 to a motor vehicle, if the motor fuel was placed into the fuel supply tank of a
104 motor vehicle that has a common fuel reservoir for travel on a highway and for
105 the operation of equipment, or if the motor fuel was placed in a separate fuel tank
106 and used only for the operation of auxiliary equipment. The exemption for use
107 pursuant to this subdivision shall be claimed by a refund claim filed by the
108 consumer who shall provide evidence of an allocation of use satisfactory to the
109 director;

110 [(7)] **(8)** Motor fuel acquired by a consumer out-of-state and carried into
111 this state, retained within and consumed from the same vehicle fuel supply tank
112 within which it was imported, except interstate motor fuel users;

113 [(8)] **(9)** Motor fuel which was purchased tax-paid and which was lost or
114 destroyed as a direct result of a sudden and unexpected casualty or which had
115 been accidentally contaminated so as to be unsalable as highway fuel as shown
116 by proper documentation as required by the director. The exemption pursuant
117 to this subdivision shall be refunded to the person or entity owning the motor fuel
118 at the time of the contamination or loss. Such person shall notify the director in
119 writing of such event and the amount of motor fuel lost or contaminated within
120 ten days from the date of discovery of such loss or contamination, and within
121 thirty days after such notice, shall file an affidavit sworn to by the person having
122 immediate custody of such motor fuel at the time of the loss or contamination,
123 setting forth in full the circumstances and the amount of the loss or
124 contamination and such other information with respect thereto as the director
125 may require;

126 [(9)] **(10)** Dyed diesel fuel or dyed kerosene used for an exempt
127 purpose. This exemption shall be claimed as follows:

128 (a) A supplier or importer shall take a deduction against motor fuel tax
129 owed on their monthly report for those gallons of dyed diesel fuel or dyed
130 kerosene imported or removed from a terminal or refinery destined for delivery
131 to a point in this state as shown on the shipping papers;

132 (b) This exemption shall be claimed by a deduction on the report of the
133 supplier which is otherwise responsible for remitting the tax on removal of the
134 product from a terminal or refinery in this state;

135 (c) This exemption shall be claimed by the distributor, upon a refund
136 application made to the director within three years. A refund claim may be made
137 monthly or whenever the claim exceeds one thousand dollars.

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Bill

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