

SECOND REGULAR SESSION

SENATE BILL NO. 838

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR ENGLER.

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

TERRY L. SPIELER, Secretary.

3289S.011

AN ACT

To repeal section 142.028, RSMo, and to enact in lieu thereof one new section relating to fuel ethanol production from qualified biomass.

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Section A. Section 142.028, RSMo, is repealed and one new section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] **a fuel which
6 meets ASTM International specification number D 4806 or subsequent
7 specifications for blending with gasoline for use as automotive spark-
8 ignition engine fuel and where the ethanol is made from cereal grains,
9 cereal grain by-products, or qualified biomass;**

10 (2) "Fuel ethanol blends", a mixture of ninety percent gasoline and ten
11 percent fuel ethanol in which the gasoline portion of the blend or the finished
12 blend meets the [American Society for Testing and Materials -] **ASTM
13 International** specification number [D-439] **D 4814;**

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

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

20 (4) "Professional forester", any individual who holds a bachelor
21 of science degree in forestry from a regionally accredited college or
22 university with a minimum of two years of professional forest
23 management experience;

24 (5) "Qualified biomass", any agriculture-derived organic material
25 or any wood-derived organic material harvested in accordance with a
26 site specific forest management plan focused on long-term forest
27 sustainability developed by a professional forester and qualified, in
28 consultation with the department of conservation, by the Missouri
29 agricultural and small business development authority.

30 2. The "Missouri Qualified Fuel Ethanol Producer Incentive Fund" is
31 hereby created and subject to appropriations shall be used to provide economic
32 subsidies to Missouri qualified fuel ethanol producers pursuant to this
33 section. The director of the department of agriculture shall administer the fund
34 pursuant to this section.

35 3. A Missouri qualified fuel ethanol producer shall be eligible for a
36 monthly grant from the fund, except that a Missouri qualified fuel ethanol
37 producer shall only be eligible for the grant for a total of sixty months unless
38 such producer during those sixty months failed, due to a lack of appropriations,
39 to receive the full amount from the fund for which they were eligible, in which
40 case such producers shall continue to be eligible for up to twenty-four additional
41 months or until they have received the maximum amount of funding for which
42 they were eligible during the original sixty-month time period. The amount of the
43 grant is determined by calculating the estimated gallons of qualified fuel ethanol
44 production to be produced from Missouri agricultural products **or qualified**
45 **biomass** for the succeeding calendar month, as certified by the department of
46 agriculture, and applying such figure to the per-gallon incentive credit
47 established in this subsection. Each Missouri qualified fuel ethanol producer
48 shall be eligible for a total grant in any fiscal year equal to twenty cents per
49 gallon for the first twelve and one-half million gallons of qualified fuel ethanol
50 produced from Missouri agricultural products **or qualified biomass** in the fiscal
51 year plus five cents per gallon for the next twelve and one-half million gallons of
52 qualified fuel ethanol produced from Missouri agricultural products **or qualified**
53 **biomass** in the fiscal year. All such qualified fuel ethanol produced by a
54 Missouri qualified fuel ethanol producer in excess of twenty-five million gallons
55 shall not be applied to the computation of a grant pursuant to this

56 subsection. The department of agriculture shall pay all grants for a particular
57 month by the fifteenth day after receipt and approval of the application described
58 in subsection 4 of this section. If actual production of qualified fuel ethanol
59 during a particular month either exceeds or is less than that estimated by a
60 Missouri qualified fuel ethanol producer, the department of agriculture shall
61 adjust the subsequent monthly grant by paying additional amount or subtracting
62 the amount in deficiency by using the calculation described in this subsection.

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

- 67 (1) The location of the Missouri qualified fuel ethanol producer;
- 68 (2) The average number of citizens of Missouri employed by the Missouri
69 qualified fuel ethanol producer in the preceding quarter, if applicable;
- 70 (3) The number of bushels of Missouri agricultural commodities **or green**
71 **weight tons of qualified biomass** used by the Missouri qualified fuel ethanol
72 producer in the production of fuel ethanol in the preceding quarter;
- 73 (4) The number of gallons of qualified fuel ethanol the producer expects
74 to manufacture during the month for which the grant is applied;
- 75 (5) A copy of the qualified fuel ethanol producer license required pursuant
76 to subsection 5 of this section, name and address of surety company, and amount
77 of bond to be posted pursuant to subsection 5 of this section; and
- 78 (6) Any other information deemed necessary by the department of
79 agriculture to adequately ensure that such grants shall be made only to Missouri
80 qualified fuel ethanol producers.

81 5. The director of the department of agriculture, in consultation with the
82 department of revenue **and the department of conservation**, shall promulgate
83 rules and regulations necessary for the administration of the provisions of this
84 section. The director shall also establish procedures for bonding Missouri
85 qualified fuel ethanol producers. Each Missouri qualified fuel ethanol producer
86 who attempts to obtain moneys pursuant to this section shall be bonded in an
87 amount not to exceed the estimated maximum monthly grant to be issued to such
88 Missouri qualified fuel ethanol producer.

89 6. Any rule or portion of a rule, as that term is defined in section 536.010,
90 RSMo, that is created under the authority delegated in this section shall become
91 effective only if it complies with and is subject to all of the provisions of chapter

92 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter
93 536, RSMo, are nonseverable and if any of the powers vested with the general
94 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date
95 or to disapprove and annul a rule are subsequently held unconstitutional, then
96 the grant of rulemaking authority and any rule proposed or adopted after August
97 28, 2002, shall be invalid and void.

98 **7. Beginning January 1, 2009, through December 31, 2019, the**
99 **economic subsidies provided under this section to Missouri qualified**
100 **fuel ethanol producers of fuel ethanol made from qualified biomass**
101 **shall not exceed ten million dollars per year. Prior to January 1, 2009,**
102 **and after December 31, 2019, Missouri qualified fuel ethanol producers**
103 **of fuel ethanol made from qualified biomass shall be ineligible for**
104 **economic subsidies under this section.**

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Bill

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