

FIRST REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 201

97TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES TORPEY (Sponsor), NETH AND BERRY (Co-sponsors).

0423H.01P

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal section 137.1018, RSMo, and to enact in lieu thereof seven new sections relating to tax credits for freight line companies.

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

Section A. Section 137.1018, RSMo, is repealed and seven new sections enacted in lieu thereof, to be known as sections 135.1550, 135.1555, 135.1560, 135.1565, 135.1570, 135.1575, and 137.1018, to read as follows:

**135.1550. 1. Sections 135.1550 to 135.1575 shall be known and may be cited as the "Missouri Export Incentive Act".**

**2. As used in sections 135.1550 to 135.1575, unless the context clearly requires otherwise, the following terms shall mean:**

**(1) "Air export tax credit", the tax credit against the taxes imposed under chapters 143, 147, and 148, except for those in sections 143.191 to 143.265, to be issued by the department to a claiming freight forwarder for the shipment of air cargo on a qualifying outbound flight;**

**(2) "Airport", any international airport located within the state;**

**(3) "Chargeable kilo", the shipment of a kilo of freight, as measured by the greater of:**

**(a) Actual weight; or**

**(b) A dimensional weight, as determined by the conversion factors promulgated by the International Air Transport Association, on a qualifying outbound flight;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15           (4) "Claiming freight forwarder", the freight forwarder designated as the "agent"  
16 on the airway bill for the qualifying outbound flight for which such air export tax credit  
17 is sought;

18           (5) "Department", the Missouri department of economic development;

19           (6) "Direct international aircraft flight", a single aircraft transoceanic flight that  
20 operates to an international destination in accordance with the operators bilateral route  
21 authority;

22           (7) "Freight forwarder", a person who assumes responsibility in the ordinary  
23 course of business for the transportation of cargo from the place of receipt to the place of  
24 destination, including the utilization of a qualifying outbound flight;

25           (8) "Qualifying outbound flight", a direct international aircraft flight that carries  
26 either all cargo or a mix of passengers and cargo from the airport to an international  
27 destination.

          135.1555. 1. For all fiscal years beginning on or after July 1, 2013, a claiming  
2 freight forwarder shall be entitled to an air export tax credit for the shipment of cargo on  
3 a qualifying outbound flight in an amount equal to forty cents per chargeable kilo.

4           2. The department shall index, and the secretary of state shall publish in the  
5 Missouri Register, the amount of the air export tax credits to adjust each year depending  
6 upon fluctuations in the cost of fuel for over-the-road transportation.

          135.1560. 1. To receive benefits provided under section 135.1555, a claiming freight  
2 forwarder shall file an application with the department within one hundred twenty  
3 calendar days of the date of shipment. The documentation to be presented by the claiming  
4 freight forwarder in such an application shall consist of the master airway bill for the  
5 shipment on the qualifying outbound flight for which the claiming freight forwarder is  
6 seeking air export tax credits. The department shall establish procedures to allow claiming  
7 freight forwarders that file applications for air export tax credits to receive such tax credits  
8 within twenty business days of the filing of the application.

9           2. If the fiscal year cap on the issuance of air export tax credits provided under  
10 section 135.1565 is met in a given fiscal year, then the amount of such tax credits that have  
11 been authorized, but remain unissued, shall be carried forward and issued in the  
12 subsequent fiscal year.

13           3. No tax credits provided under this section shall be authorized after June 30,  
14 2021. Any tax credits authorized on or before June 30, 2021, but not issued, may be issued  
15 until all such authorized tax credits have been issued.

          135.1565. The total aggregate amount for air export tax credits authorized under  
2 section 135.1555 shall not exceed sixty million dollars. The amount of the air export tax

3 credits issued under section 135.1555 shall not exceed seven million five hundred thousand  
4 dollars for each fiscal year beginning on or after July 1, 2013, unless authorized by the  
5 department. Any amount issued exceeding seven million five hundred thousand dollars  
6 in a fiscal year shall be reduced first from the authorized amount for the fiscal year ending  
7 June 30, 2021, and then the preceding fiscal years, until all such authorized credits have  
8 been issued.

135.1570. If the amount of any tax credit authorized under sections 135.1550 to  
2 135.1575 exceeds the total tax liability for the year in which the applicant is entitled to  
3 receive a tax credit, the amount that exceeds the state tax liability may be carried forward  
4 for credit against the taxes imposed under chapters 143, 147, and 148, except those in  
5 sections 143.191 to 143.265, for the succeeding six years, or until the full credit is used,  
6 whichever occurs first. Tax credits authorized under the provisions of sections 135.1550  
7 to 135.1575 may be transferred, sold, or otherwise assigned. Tax credits granted to a  
8 partnership, a limited liability company taxed as a partnership, or multiple owners of  
9 property shall be passed through to the partners, members, or owners respectively pro rata  
10 or pursuant to an executed agreement among the partners, members, or owners  
11 documenting an alternate distribution method.

135.1575. 1. The department may promulgate rules to implement the provisions  
2 of sections 135.1550 to 135.1575. Any rule or portion of a rule, as that term is defined in  
3 section 536.010 that is created under the authority delegated in this section shall become  
4 effective only if it complies with and is subject to all of the provisions of chapter 536, and,  
5 if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of  
6 the powers vested with the general assembly pursuant to chapter 536, to review, to delay  
7 the effective date, or to disapprove and annul a rule are subsequently held  
8 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted  
9 after the effective date of this act, shall be invalid and void.

2. The provisions of section 23.253 of the Missouri sunset act notwithstanding:

11 (1) The provisions of the new programs authorized under sections 135.1550 to  
12 135.1575 shall automatically sunset eight years after the effective date of this act, unless  
13 reauthorized by an act of the general assembly;

14 (2) If such program is reauthorized, the program authorized under this section  
15 shall automatically sunset eight years after the effective date of the reauthorization of this  
16 section; and

17 (3) This section shall terminate on September first of the calendar year immediately  
18 following the calendar year in which the programs authorized under sections 135.1550 to  
19 135.1575 sunset.

137.1018. 1. The commission shall ascertain the statewide average rate of property taxes  
2 levied the preceding year, based upon the total assessed valuation of the railroad and street  
3 railway companies and the total property taxes levied upon the railroad and street railway  
4 companies. It shall determine total property taxes levied from reports prescribed by the  
5 commission from the railroad and street railway companies. Total taxes levied shall not include  
6 revenues from the surtax on subclass three real property.

7         2. The commission shall report its determination of average property tax rate for the  
8 preceding year, together with the taxable distributable assessed valuation of each freight line  
9 company for the current year to the director no later than October first of each year.

10         3. Taxes on property of such freight line companies shall be collected at the state level  
11 by the director on behalf of the counties and other local public taxing entities and shall be  
12 distributed in accordance with sections 137.1021 and 137.1024. The director shall tax such  
13 property based upon the distributable assessed valuation attributable to Missouri of each freight  
14 line company, using the average tax rate for the preceding year of the railroad and street railway  
15 companies certified by the commission. Such tax shall be due and payable on or before  
16 December thirty-first of the year levied and, if it becomes delinquent, shall be subject to a penalty  
17 equal to that specified in section 140.100.

18         4. (1) As used in this subsection, the following terms mean:

19             (a) "Eligible expenses", expenses incurred in this state to manufacture, maintain, or  
20 improve a freight line company's qualified rolling stock;

21             (b) "Qualified rolling stock", any freight, stock, refrigerator, or other railcars subject to  
22 the tax levied under this section.

23         (2) For all taxable years beginning on or after January 1, 2009, a freight line company  
24 shall, subject to appropriation, be allowed a credit against the tax levied under this section for  
25 the applicable tax year. The tax credit amount shall be equal to the amount of eligible expenses  
26 incurred during the calendar year immediately preceding the tax year for which the credit under  
27 this section is claimed. The amount of the tax credit issued shall not exceed the freight line  
28 company's liability for the tax levied under this section for the tax year for which the credit is  
29 claimed.

30         (3) A freight line company may apply for the credit by submitting to the commission an  
31 application in the form prescribed by the state tax commission.

32         (4) Subject to appropriation, the state shall reimburse, on an annual basis, any political  
33 subdivision of this state for any decrease in revenue due to the provisions of this subsection.

34         5. Pursuant to section 23.253 of the Missouri sunset act:

35             (1) [The provisions of the new program authorized under this section shall automatically  
36 sunset six years after August 28, 2008, unless reauthorized by an act of the general assembly; and

37 (2) If such program is reauthorized,] The program authorized under this section shall  
38 [automatically sunset twelve years after the effective date of the reauthorization of this section]  
39 **expire on August 28, 2020;** and

40 [(3)] **(2)** This section shall terminate on September [first of the calendar year  
41 immediately following the calendar year in which the program authorized under this section is  
42 sunset] **1, 2021.**

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