

SECOND REGULAR SESSION

# HOUSE BILL NO. 1875

## 101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HAFFNER.

3653H.01I

DANA RADEMAN MILLER, Chief Clerk

### AN ACT

To amend chapter 135, RSMo, by adding thereto two new sections relating to tax credits for biodiesel fuels.

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

Section A. Chapter 135, RSMo, is amended by adding thereto two new sections, to be known as sections 135.775 and 135.778, to read as follows:

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

- (1) "Biodiesel blend", a blend of diesel fuel and biodiesel fuel of at least five percent and not more than twenty percent for on-road and off-road diesel-fueled vehicle use. Biodiesel blend shall comply with ASTM International Standard D7467-20a, Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6 to B20), or the most recent specification;**
- (2) "Biodiesel fuel", a renewable, biodegradable, mono alkyl ester combustible liquid fuel that is derived from agricultural and other plant oils or animal fats and that meets the ASTM International Standard D6751-20a, Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels or the most recent specification, or any ASTM International Standard Specification for (B99) Blend Stock for Distillate Fuels if any such standard specification is promulgated. Biodiesel produced from palm oil is not biodiesel fuel for the purposes of this section, unless the palm oil is contained within waste oil and grease collected within the United States;**
- (3) "Department", the Missouri department of revenue;**
- (4) "Retail dealer", a person that owns or operates a retail service station;**

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.

17           **(5) "Retail service station", a location from which biodiesel blend is sold to the**  
18 **general public and is dispensed directly into motor vehicle fuel tanks for consumption.**

19           **2. For all tax years beginning on or after January 1, 2023, a retail dealer that**  
20 **sells a biodiesel blend at a retail service station shall be allowed a tax credit to be taken**  
21 **against the retail dealer's state income tax liability. The amount of the credit shall be**  
22 **equal to:**

23           **(1) Two cents per gallon of biodiesel blend of at least five percent but not more**  
24 **than ten percent sold by the retail dealer at a retail service station during the tax year in**  
25 **which the tax credit is claimed; and**

26           **(2) Five cents per gallon of biodiesel blend in excess of ten percent sold by the**  
27 **retail dealer at a retail service station during the tax year in which the tax credit is**  
28 **claimed.**

29           **3. Tax credits authorized under this section shall not be transferred, sold, or**  
30 **assigned. If the amount of the tax credit exceeds the taxpayer's state tax liability, the**  
31 **difference shall be refundable. The total amount of tax credits authorized under this**  
32 **section for any given fiscal year shall not exceed sixteen million dollars.**

33           **4. In the event the total amount of tax credits claimed under this section exceeds**  
34 **the amount of available tax credits, the tax credits shall be apportioned equally to all**  
35 **eligible retail dealers claiming a tax credit by April fifteenth of the fiscal year in which**  
36 **the tax credit is claimed.**

37           **5. The tax credit allowed by this section shall be claimed by such taxpayer at the**  
38 **time such taxpayer files a return and shall be applied against the income tax liability**  
39 **imposed by chapter 143 after reduction for all other credits allowed thereon. The**  
40 **department may require any documentation it deems necessary to implement the**  
41 **provisions of this section.**

42           **6. The department may work with the division of weights and measures within**  
43 **the department of agriculture to validate that the biodiesel blend a retail dealer claims**  
44 **for the tax credit authorized under this section contains a sufficient percentage of**  
45 **biodiesel fuel.**

46           **7. The department shall promulgate rules to implement the provisions of this**  
47 **section. Any rule or portion of a rule, as that term is defined in section 536.010, that is**  
48 **created pursuant to the authority delegated in this section shall become effective only if**  
49 **it complies with and is subject to all of the provisions of chapter 536 and, if applicable,**  
50 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**  
51 **vested with the general assembly pursuant to chapter 536 to review, to delay the**  
52 **effective date, or to disapprove and annul a rule are subsequently held unconstitutional,**

53 then the grant of rulemaking authority and any rule proposed or adopted after August  
54 28, 2022, shall be invalid and void.

55 8. Pursuant to section 23.253 of the Missouri sunset act:

56 (1) The provisions of the new program authorized under this section shall  
57 automatically sunset on December 31, 2028, unless reauthorized by an act of the general  
58 assembly;

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

62 (3) This section shall terminate on September first of the calendar year  
63 immediately following the calendar year in which the program authorized under this  
64 section is sunset. The termination of the program as described in this subsection shall  
65 not be construed to preclude any qualified taxpayer who claims any benefit under any  
66 program that is sunset under this subsection from claiming such benefit for all allowable  
67 activities related to such claim that were completed before the program was sunset, or to  
68 eliminate any responsibility of the department to verify the continued eligibility of  
69 qualified individuals receiving tax credits and to enforce other requirements of law that  
70 applied before the program was sunset.

135.778. 1. For the purposes of this section, the following terms shall mean:

2 (1) "Biodiesel fuel", a renewable, biodegradable, mono alkyl ester combustible  
3 liquid fuel that is derived from agricultural and other plant oils or animal fats and that  
4 meets the ASTM International Standard D6751-20a, Standard Specification for  
5 Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels or the most recent  
6 specification, or any ASTM International Standard Specification for (B99) Blend Stock  
7 for Distillate Fuels if any such standard specification is promulgated. Biodiesel  
8 produced from palm oil is not biodiesel fuel for the purposes of this section, unless the  
9 palm oil is contained within waste oil and grease collected within the United States;

10 (2) "Department", the Missouri department of revenue;

11 (3) "Missouri biodiesel producer", a facility that produces biodiesel fuel, is  
12 registered with the United States Environmental Protection Agency according to the  
13 requirements of 40 CFR Part 79, has begun construction on such facility or has been  
14 selling biodiesel fuel produced at such facility on or before August 28, 2022, and:

15 (a) Is at least fifty-one percent owned by agricultural producers who are  
16 residents of this state and who are actively engaged in agricultural production for  
17 commercial purposes; or

18 (b) At least eighty percent of the feedstock used by the facility originates in the  
19 state of Missouri. For purposes of this section, "feedstock" means an agricultural,

20 horticultural, viticultural, vegetable, aquacultural, livestock, forestry, or poultry  
21 product either in its natural or processed state.

22       2. (1) For all tax years beginning on or after January 1, 2023, a Missouri  
23 biodiesel producer shall be allowed a tax credit to be taken against the producer's state  
24 income tax liability. The amount of the tax credit shall be two cents per gallon of  
25 biodiesel fuel produced by the Missouri biodiesel producer.

26       (2) A biodiesel producer that is not a Missouri biodiesel producer because the  
27 producer does not meet the provisions of paragraph (a) or (b) of subdivision (3) of  
28 subsection 1 of this section may claim a prorated tax credit equal to the following:

29       (a) For a biodiesel producer for which at least seventy percent but less than  
30 eighty percent of the producer's feedstock originates in the state of Missouri, the tax  
31 credit shall equal one and one-half cents per gallon of biodiesel fuel produced;

32       (b) For a biodiesel producer for which at least sixty percent but less than seventy  
33 percent of the producer's feedstock originates in the state of Missouri, the tax credit  
34 shall equal one cent per gallon of biodiesel fuel produced; and

35       (c) For a biodiesel producer for which at least fifty percent but less than sixty  
36 percent of the producer's feedstock originates in the state of Missouri, the tax credit  
37 shall equal one-half cent per gallon of biodiesel fuel produced.

38       3. Tax credits authorized under this section shall not be transferred, sold, or  
39 assigned. If the amount of the tax credit exceeds the taxpayer's state tax liability, the  
40 difference shall be refundable. The total amount of tax credits authorized under this  
41 section for any given fiscal year shall not exceed four million dollars.

42       4. In the event the total amount of tax credits claimed under this section exceeds  
43 the amount of available tax credits, the tax credits shall be apportioned equally to all  
44 eligible Missouri biodiesel producers claiming the credit by April fifteenth of the fiscal  
45 year in which the tax credit is claimed.

46       5. The tax credit authorized under this section shall be claimed by such taxpayer  
47 at the time such taxpayer files a return and shall be applied against the income tax  
48 liability imposed by chapter 143 after reduction for all other credits allowed thereon.  
49 The department may require any documentation it deems necessary to implement the  
50 provisions of this section.

51       6. The department may work with the department of agriculture to validate that  
52 the biodiesel fuel and feedstock meet the requirements for the tax credit authorized  
53 under this section.

54       7. The department shall promulgate rules to implement the provisions of this  
55 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is  
56 created pursuant to the authority delegated in this section shall become effective only if

57 it complies with and is subject to all of the provisions of chapter 536 and, if applicable,  
58 section 536.028. This section and chapter 536 are nonseverable, and if any of the powers  
59 vested with the general assembly pursuant to chapter 536 to review, to delay the  
60 effective date, or to disapprove and annul a rule are subsequently held unconstitutional,  
61 then the grant of rulemaking authority and any rule proposed or adopted after August  
62 28, 2022, shall be invalid and void.

63 8. Pursuant to section 23.253 of the Missouri sunset act:

64 (1) The provisions of the new program authorized under this section shall  
65 automatically sunset on December 31, 2028, unless reauthorized by an act of the general  
66 assembly;

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

70 (3) This section shall terminate on September first of the calendar year  
71 immediately following the calendar year in which the program authorized under this  
72 section is sunset. The termination of the program as described in this subsection shall  
73 not be construed to preclude any qualified taxpayer who claims any benefit under any  
74 program that is sunset under this subsection from claiming such benefit for all allowable  
75 activities related to such claim that were completed before the program was sunset, or to  
76 eliminate any responsibility of the department to verify the continued eligibility of  
77 qualified individuals receiving tax credits and to enforce other requirements of law that  
78 applied before the program was sunset.

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