

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE SUBSTITUTE FOR  
**SENATE BILL NO. 40**  
**94TH GENERAL ASSEMBLY**

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Reported from the Special Committee on Utilities, May 8, 2007 with recommendation that House Committee Substitute for Senate Substitute for Senate Bill No. 40 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

0214L.06C

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**AN ACT**

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

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*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 three new  
2 sections, to be known as sections 135.710, 143.114, and 143.128, to 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 the volume of  
3 which consists of one or more of the following:  
4 (a) Ethanol;  
5 (b) Natural gas;  
6 (c) Compressed natural gas;  
7 (d) Liquified natural gas;  
8 (e) Liquified petroleum gas;  
9 (f) Any mixture of biodiesel and diesel fuel, without regard to any use of kerosene;  
10 (2) "Department", the department of natural resources;  
11 (3) "Eligible applicant", a business entity that is the owner of a qualified  
12 alternative fuel vehicle refueling property;

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.

13           (4) "Qualified alternative fuel vehicle refueling property", property in this state  
14 owned by a firm or corporation and used for storing alternative fuels and for dispensing  
15 such alternative fuels into fuel tanks of motor vehicles owned by such firm or corporation  
16 or private citizens.

17           2. For all tax years beginning on or after January 1, 2008, but before January 1,  
18 2011, any eligible applicant who installs and operates a qualified alternative fuel vehicle  
19 refueling property shall be allowed a credit against the tax otherwise due under chapter  
20 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or  
21 due under chapter 147, RSMo, or chapter 148, RSMo, for any tax year in which the  
22 applicant is constructing the refueling property. The credit allowed in this section per  
23 eligible applicant shall not exceed the lesser of twenty thousand dollars or twenty percent  
24 of the total costs directly associated with the purchase and installation of any alternative  
25 fuel storage and dispensing equipment on any qualified alternative fuel vehicle refueling  
26 property, which shall not include the following:

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

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

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

32           3. The tax credits allowed by this section shall be claimed by the eligible applicant  
33 at the time such applicant files a return for the tax year in which the storage and  
34 dispensing facilities were placed in service at a qualified alternative fuel vehicle refueling  
35 property, and shall be applied against the income tax liability imposed by chapter 143,  
36 RSMo, chapter 147, RSMo, or chapter 148, RSMo, after all other credits provided by law  
37 have been applied. The cumulative amount of tax credits which may be claimed by eligible  
38 applicants claiming all credits authorized in this section shall not exceed the following  
39 amounts:

40           (1) In taxable year 2008, two million dollars;

41           (2) In taxable year 2009, one million dollars; and

42           (3) In taxable year 2010, one million dollars.

43           4. If the amount of the tax credit exceeds the eligible applicant's tax liability, the  
44 difference shall not be refundable. Any amount of credit that an eligible applicant is  
45 prohibited by this section from claiming in a taxable year may be carried forward to any  
46 of such applicant's two subsequent taxable years. Tax credits allowed under this section  
47 shall not be transferrable.

48           **5. An alternative fuel vehicle refueling property, for which an eligible applicant**  
49 **receives tax credits under this section, which ceases to sell alternative fuel shall cause the**  
50 **forfeiture of such eligible applicant's tax credits provided under this section for the taxable**  
51 **year in which the alternative fuel vehicle refueling property ceased to sell alternative fuel**  
52 **and for future taxable years with no recapture of tax credits obtained by an eligible**  
53 **applicant with respect to such applicant's tax years which ended before the sale of**  
54 **alternative fuel ceased.**

55           **6. The director of revenue shall establish the procedure by which the tax credits in**  
56 **this section may be claimed, and shall establish a procedure by which the cumulative**  
57 **amount of tax credits is apportioned equally among all eligible applicants claiming the**  
58 **credit. To the maximum extent possible, the director of revenue shall establish the**  
59 **procedure described in this subsection in such a manner as to ensure that eligible**  
60 **applicants can claim all the tax credits possible up to the cumulative amount of tax credits**  
61 **available for the taxable year. No eligible applicant claiming a tax credit under this section**  
62 **shall be liable for any interest or penalty for filing a tax return after the date fixed for**  
63 **filing such return as a result of the apportionment procedure under this subsection.**

64           **7. Any eligible applicant desiring to claim a tax credit under this section shall**  
65 **submit the appropriate application for such credit with the department. The application**  
66 **for a tax credit under this section shall include any information required by the**  
67 **department. The department shall review the applications and certify to the department**  
68 **of revenue each eligible applicant that qualifies for the tax credit.**

69           **8. The department and the department of revenue may promulgate rules to**  
70 **implement the provisions of this section. Any rule or portion of a rule, as that term is**  
71 **defined in section 536.010, RSMo, that is created under the authority delegated in this**  
72 **section shall become effective only if it complies with and is subject to all of the provisions**  
73 **of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter**  
74 **536, RSMo, are nonseverable and if any of the powers vested with the general assembly**  
75 **pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and**  
76 **annul a rule are subsequently held unconstitutional, then the grant of rulemaking**  
77 **authority and any rule proposed or adopted after August 28, 2007, shall be invalid and**  
78 **void.**

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

80           **(1) The provisions of the new program authorized under this section shall**  
81 **automatically sunset three years after the effective date of this section unless reauthorized**  
82 **by an act of the general assembly; and**

83           (2) This section shall terminate on December thirty-first of the calendar year  
84 immediately following the calendar year in which the program authorized under this  
85 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 exclusively upon  
3 tracks, except farm tractors;

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

6           (a) The original use of which commences with the taxpayer; and

7           (b) Which is acquired for use by the taxpayer and not for resale; and

8           (c) Which meets the definition of new qualified hybrid motor vehicle in section  
9 30B(d)(3)(A) of the Internal Revenue Code of 1986, as amended, or is a new motor vehicle  
10 designed to operate on eighty-five percent ethanol fuel.

11           2. For the tax year beginning on January 1, 2008, any taxpayer who purchases a  
12 qualified hybrid vehicle shall be allowed to subtract from the taxpayer's Missouri adjusted  
13 gross income to determine Missouri taxable income, for the tax year in which the taxpayer  
14 purchases the vehicle, an amount equal to one thousand five hundred dollars or ten percent  
15 of the purchase price of the vehicle, whichever is less.

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

20           4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,  
21 that is created under the authority delegated in this section shall become effective only if  
22 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if  
23 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable  
24 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,  
25 to review, to delay the effective date, or to disapprove and annul a rule are subsequently  
26 held unconstitutional, then the grant of rulemaking authority and any rule proposed or  
27 adopted after August 28, 2007, shall be invalid and void.

143.128. 1. For purposes of this section the term "E-85 gasoline" shall mean  
2 ethanol blended gasoline formulated with a minimum of seventy-five percent by volume  
3 of ethanol. For all tax years beginning on or after January 1, 2008, a taxpayer who  
4 purchases E-85 gasoline in a tax year shall be allowed to claim a tax credit against the tax  
5 otherwise due under this chapter, excluding sections 143.191 to 143.265, in the following  
6 amounts:

7           (1) For calendar year 2008, the amount of the credit shall be equal to twenty-five  
8 cents per gallon of E-85 gasoline purchased by the taxpayer;

9           (2) For calendar years 2009 and 2010, the amount of the credit shall be equal to  
10 twenty cents per gallon of E-85 gasoline purchased by the taxpayer;

11           (3) For calendar year 2011 and each subsequent calendar year, the amount of the  
12 credit shall be equal to fifteen cents per gallon of E-85 gasoline purchased by the taxpayer.

13           2. The amount of credits claimed per taxpayer annually shall not exceed five  
14 hundred dollars. A taxpayer shall claim the credit allowed by this section at the time such  
15 taxpayer files a return. In the event the amount of the tax credit provided under this  
16 section exceeds a taxpayer's income tax liability, no refund shall result, but such excess tax  
17 credits may be carried forward to any of the taxpayer's three subsequent tax years. The  
18 aggregate amount of tax credits which may be redeemed in any fiscal year shall not exceed  
19 five hundred thousand dollars. The tax credit shall be available regardless of whether the  
20 taxpayer opts to take a standard deduction. The department of revenue is authorized to  
21 adopt any rule or regulations deemed necessary for the effective administration of this  
22 section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,  
23 that is created under the authority delegated in this section shall become effective only if  
24 it complies with and is subject to all of the provisions of chapter 536, RSMo, and if  
25 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable  
26 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,  
27 to review, to delay the effective date, or to disapprove and annul a rule are subsequently  
28 held unconstitutional, then the grant of rulemaking authority and any rule proposed or  
29 adopted after August 28, 2007, shall be invalid and void.

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

31           (1) The provisions of the new program authorized under this section shall sunset  
32 automatically four years after the effective date of this section unless reauthorized by an  
33 act of the general assembly; and

34           (2) This section shall terminate on September first of the calendar year immediately  
35 following the calendar year in which the program authorized under this section is sunset.

36           4. Nothing in this section shall be construed as authorizing, approving, or  
37 condoning the violation of a motor vehicle manufacturer's stated warranty with regard to  
38 recommended fuel use.

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