

FIRST REGULAR SESSION

HOUSE BILL NO. 709

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES DETHROW (Sponsor), KUESSNER, FRANZ, WILSON (119), WALLACE, SATER, MAY, WELLS, SANDER, QUINN (7), DAY, SMITH (150), GUEST, SCHLOTTACH, WHORTON AND JETTON (Co-sponsors).

Read 1st time February 1, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

1871L.01I

AN ACT

To repeal section 142.028, RSMo, and to enact in lieu thereof one new section relating to qualified bio-mass.

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Section A. Section 142.028, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 142.028, to read as follows: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:

- (1) "Fuel ethanol", one hundred ninety-eight proof ethanol denatured in conformity with the United States Bureau of Alcohol, Tobacco and Firearms' regulations and fermented and distilled in a facility whose principal (over fifty percent) feed stock is cereal grain or cereal grain by-products;
- (2) "Fuel ethanol blends", a mixture of ninety percent gasoline and ten percent fuel ethanol in which the gasoline portion of the blend or the finished blend meets the American Society for Testing and Materials - specification number D-439;
- (3) "Missouri qualified fuel ethanol producer", any producer of fuel ethanol whose principal place of business and facility for the fermentation and distillation of fuel ethanol is located within the state of Missouri and is at least fifty-one percent owned by agricultural producers actively engaged in agricultural production for commercial purposes, and which has made formal application, posted a bond, and conformed to the requirements of this section;

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.

14 (4) **"Qualified bio-mass", any agriculturally derived organic material or any wood-**
15 **derived organic material qualified, in consultation with the conservation commission, by**
16 **the agriculture and small business development authority.**

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

21 3. A Missouri qualified fuel ethanol producer shall be eligible for a monthly grant from
22 the fund, except that a Missouri qualified fuel ethanol producer shall only be eligible for the
23 grant for a total of sixty months unless such producer during those sixty months failed, due to
24 a lack of appropriations, to receive the full amount from the fund for which they were eligible,
25 in which case such producers shall continue to be eligible for up to twenty-four additional
26 months or until they have received the maximum amount of funding for which they were eligible
27 during the original sixty-month time period. The amount of the grant is determined by
28 calculating the estimated gallons of qualified fuel ethanol production to be produced from
29 Missouri agricultural products **or qualified bio-mass** for the succeeding calendar month, as
30 certified by the department of agriculture, and applying such figure to the per-gallon incentive
31 credit established in this subsection. Each Missouri qualified fuel ethanol producer shall be
32 eligible for a total grant in any fiscal year equal to twenty cents per gallon for the first twelve and
33 one-half million gallons of qualified fuel ethanol produced from Missouri agricultural products
34 **or qualified bio-mass** in the fiscal year plus five cents per gallon for the next twelve and
35 one-half million gallons of qualified fuel ethanol produced from Missouri agricultural products
36 **or qualified bio-mass** in the fiscal year. All such qualified fuel ethanol produced by a Missouri
37 qualified fuel ethanol producer in excess of twenty-five million gallons shall not be applied to
38 the computation of a grant pursuant to this subsection. The department of agriculture shall pay
39 all grants for a particular month by the fifteenth day after receipt and approval of the application
40 described in subsection 4 of this section. If actual production of qualified fuel ethanol during a
41 particular month either exceeds or is less than that estimated by a Missouri qualified fuel ethanol
42 producer, the department of agriculture shall adjust the subsequent monthly grant by paying
43 additional amount or subtracting the amount in deficiency by using the calculation described in
44 this subsection.

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

48 (1) The location of the Missouri qualified fuel ethanol producer;

49 (2) The average number of citizens of Missouri employed by the Missouri qualified fuel
50 ethanol producer in the preceding quarter, if applicable;

51 (3) The number of bushels of Missouri agricultural commodities **or green weight tons**
52 **of qualified bio-mass** used by the Missouri qualified fuel ethanol producer in the production of
53 fuel ethanol in the preceding quarter;

54 (4) The number of gallons of qualified fuel ethanol the producer expects to manufacture
55 during the month for which the grant is applied;

56 (5) A copy of the qualified fuel ethanol producer license required pursuant to subsection
57 5 of this section, name and address of surety company, and amount of bond to be posted pursuant
58 to subsection 5 of this section; and

59 (6) Any other information deemed necessary by the department of agriculture to
60 adequately ensure that such grants shall be made only to Missouri qualified fuel ethanol
61 producers.

62 5. The director of the department of agriculture, in consultation with the department of
63 revenue, shall promulgate rules and regulations necessary for the administration of the provisions
64 of this section. The director shall also establish procedures for bonding Missouri qualified fuel
65 ethanol producers. Each Missouri qualified fuel ethanol producer who attempts to obtain
66 moneys pursuant to this section shall be bonded in an amount not to exceed the estimated
67 maximum monthly grant to be issued to such Missouri qualified fuel ethanol producer.

68 6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
69 is created under the authority delegated in this section shall become effective only if it complies
70 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
71 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers
72 vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the
73 effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the
74 grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be
75 invalid and void.

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