

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 709**  
**94TH GENERAL ASSEMBLY**

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Reported from the Committee on Agriculture Policy March 29, 2007 with recommendation that House Committee Substitute for House Bill No. 709 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

1871L.04C

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**AN ACT**

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

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*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Section A. Section 142.028, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 142.028, to read as follows: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] **a fuel which meets ASTM International specification number D 4806 or subsequent specifications for blending with gasoline for use as automotive spark-ignition engine fuel and where the ethanol is made from cereal grains, cereal grain by-products, or qualified biomass;**

(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 -] **ASTM International** specification number [D-439] **D 4814;**

(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

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 producers actively engaged in agricultural production for commercial purposes, and which has  
16 made formal application, posted a bond, and conformed to the requirements of this section;

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

20 (5) **"Qualified biomass", any agriculture-derived organic material or any wood-**  
21 **derived organic material harvested in accordance with a site specific forest management**  
22 **plan focused for long-term forest sustainability developed by a professional forester and**  
23 **qualified, in consultation with the conservation commission, by the agriculture and small**  
24 **business development authority.**

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

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

51 additional amount or subtracting the amount in deficiency by using the calculation described in  
52 this subsection.

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

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

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

59 (3) The number of bushels of Missouri agricultural commodities **or green weight tons**  
60 **of qualified biomass** used by the Missouri qualified fuel ethanol producer in the production of  
61 fuel ethanol in the preceding quarter;

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

64 (5) A copy of the qualified fuel ethanol producer license required pursuant to subsection  
65 5 of this section, name and address of surety company, and amount of bond to be posted pursuant  
66 to subsection 5 of this section; and

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

70 5. The director of the department of agriculture, in consultation with the department of  
71 revenue **and the department of conservation**, shall promulgate rules and regulations necessary  
72 for the administration of the provisions of this section. The director shall also establish  
73 procedures for bonding Missouri qualified fuel ethanol producers. Each Missouri qualified fuel  
74 ethanol producer who attempts to obtain moneys pursuant to this section shall be bonded in an  
75 amount not to exceed the estimated maximum monthly grant to be issued to such Missouri  
76 qualified fuel ethanol producer.

77 6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that  
78 is created under the authority delegated in this section shall become effective only if it complies  
79 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section  
80 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers  
81 vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the  
82 effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the  
83 grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be  
84 invalid and void.

85 **7. Beginning January 1, 2008, through December 31, 2018, the economic subsidies**  
86 **provided under this section to Missouri qualified fuel ethanol producers of fuel ethanol**

87 made from qualified biomass shall not exceed ten million dollars per year. Prior to  
88 January 1, 2008, and after January 1, 2019, Missouri qualified fuel ethanol producers of  
89 fuel ethanol made from qualified biomass shall be ineligible for economic subsidies under  
90 this section.

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