

SECOND REGULAR SESSION

# HOUSE BILL NO. 2274

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES MUNZLINGER (Sponsor) AND SANDER (Co-sponsor).

Read 1st time February 27, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4880L.01I

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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 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:**

- (1) "Alternative fuels", any motor fuel at least seventy percent of the volume of which consists of one or more of the following:
- (a) Ethanol;
  - (b) Natural gas;
  - (c) Compressed natural gas;
  - (d) Liquified natural gas;
  - (e) Liquified petroleum gas;
  - (f) Any mixture of biodiesel and diesel fuel, without regard to any use of kerosene;
- (2) "Department", the department of natural resources;
- (3) "Eligible applicant", a business entity that is the owner of a qualified alternative fuel vehicle refueling property;
- (4) "Qualified alternative fuel vehicle refueling property", property in this state owned by an eligible applicant and used for storing alternative fuels and for dispensing such alternative fuels into fuel tanks of motor vehicles owned by such eligible applicant or

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.

16 private citizens which, if constructed after August 28, 2008, was constructed with at least  
17 fifty-one percent of the costs being paid to qualified Missouri contractors for the:

18 (a) Fabrication of premanufactured equipment or process piping used in the  
19 construction of such facility;

20 (b) Construction of such facility; and

21 (c) General maintenance of such facility during the time period in which such  
22 facility receives any tax credit under this section.

23

24 If no qualified Missouri contractor is located within seventy-five miles of the property, the  
25 requirement that fifty-one percent of the costs shall be paid to qualified Missouri  
26 contractors shall not apply;

27 (5) "Qualified Missouri contractor", a contractor whose principal place of business  
28 is located in Missouri and has been located in Missouri for a period of not less than five  
29 years.

30 2. For all tax years beginning on or after January 1, 2009, but before January 1,  
31 2012, any eligible applicant who installs and operates a qualified alternative fuel vehicle  
32 refueling property shall be allowed a credit against the tax otherwise due under chapter  
33 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or  
34 due under chapter 147, RSMo, or chapter 148, RSMo, for any tax year in which the  
35 applicant is constructing the refueling property. The credit allowed in this section per  
36 eligible applicant shall not exceed the lesser of twenty thousand dollars or twenty percent  
37 of the total costs directly associated with the purchase and installation of any alternative  
38 fuel storage and dispensing equipment on any qualified alternative fuel vehicle refueling  
39 property, which shall not include the following:

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

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

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

45 3. Tax credits allowed by this section shall be claimed by the eligible applicant at  
46 the time such applicant files a return for the tax year in which the storage and dispensing  
47 facilities were placed in service at a qualified alternative fuel vehicle refueling property,  
48 and shall be applied against the income tax liability imposed by chapter 143, RSMo,  
49 chapter 147, RSMo, or chapter 148, RSMo, after all other credits provided by law have  
50 been applied. The cumulative amount of tax credits which may be claimed by eligible

51 applicants claiming all credits authorized in this section shall not exceed the following  
52 amounts:

53 (1) In taxable year 2009, three million dollars;

54 (2) In taxable year 2010, two million dollars; and

55 (3) In taxable year 2011, one million dollars.

56 4. If the amount of the tax credit exceeds the eligible applicant's tax liability, the  
57 difference shall not be refundable. Any amount of credit that an eligible applicant is  
58 prohibited by this section from claiming in a taxable year may be carried forward to any  
59 of such applicant's two subsequent taxable years. Tax credits allowed under this section  
60 may be assigned, transferred, sold, or otherwise conveyed.

61 5. An alternative fuel vehicle refueling property, for which an eligible applicant  
62 receives tax credits under this section, which ceases to sell alternative fuel shall cause the  
63 forfeiture of such eligible applicant's tax credits provided under this section for the taxable  
64 year in which the alternative fuel vehicle refueling property ceased to sell alternative fuel  
65 and for future taxable years with no recapture of tax credits obtained by an eligible  
66 applicant with respect to such applicant's tax years which ended before the sale of  
67 alternative fuel ceased.

68 6. The director of revenue shall establish the procedure by which the tax credits in  
69 this section may be claimed, and shall establish a procedure by which the cumulative  
70 amount of tax credits is apportioned equally among all eligible applicants claiming the  
71 credit. To the maximum extent possible, the director of revenue shall establish the  
72 procedure described in this subsection in such a manner as to ensure that eligible  
73 applicants can claim all the tax credits possible up to the cumulative amount of tax credits  
74 available for the taxable year. No eligible applicant claiming a tax credit under this section  
75 shall be liable for any interest or penalty for filing a tax return after the date fixed for  
76 filing such return as a result of the apportionment procedure under this subsection.

77 7. Any eligible applicant desiring to claim a tax credit under this section shall  
78 submit the appropriate application for such credit with the department. The application  
79 for a tax credit under this section shall include any information required by the  
80 department. The department shall review the applications and certify to the department  
81 of revenue each eligible applicant that qualifies for the tax credit.

82 8. The department and the department of revenue may promulgate rules to  
83 implement the provisions of this section. Any rule or portion of a rule, as that term is  
84 defined in section 536.010, RSMo, that is created under the authority delegated in this  
85 section shall become effective only if it complies with and is subject to all of the provisions  
86 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter

87 536, RSMo, are nonseverable and if any of the powers vested with the general assembly  
88 pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and  
89 annul a rule are subsequently held unconstitutional, then the grant of rulemaking  
90 authority and any rule proposed or adopted after August 28, 2008, shall be invalid and  
91 void.

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

93 (1) The provisions of the new program authorized under this section shall  
94 automatically sunset six years after the effective date of this section unless reauthorized by  
95 an act of the general assembly; and

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

99 (3) This section shall terminate on December thirty-first of the calendar year  
100 immediately following the calendar year in which the program authorized under this  
101 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) Which meets the definition of new qualified hybrid motor vehicle in section  
7 30B(d)(3)(A) of the Internal Revenue Code of 1986, as amended;

8 (b) The original use of which commences with the taxpayer; and

9 (c) Which is acquired for use by the taxpayer and not for resale.

10 2. For the tax year beginning on January 1, 2009, any taxpayer who purchases a  
11 qualified hybrid vehicle shall be allowed to subtract from the taxpayer's Missouri adjusted  
12 gross income to determine Missouri taxable income, for the tax year in which the taxpayer  
13 purchases the vehicle, an amount equal to one thousand five hundred dollars or ten percent  
14 of the purchase price of the vehicle, whichever is less.

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

19 4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,  
20 that is created under the authority delegated in this section shall become effective only if  
21 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if

22 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable  
23 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,  
24 to review, to delay the effective date, or to disapprove and annul a rule are subsequently  
25 held unconstitutional, then the grant of rulemaking authority and any rule proposed or  
26 adopted after August 28, 2008, 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 percentage of between seventy-five  
3 and eighty-five percent by volume of ethanol, "biodiesel" shall mean fuel as defined in  
4 ASTM Standard D-6751 or its subsequent standard specifications for biodiesel fuel (B100)  
5 blend stock for distillate fuels, and "biodiesel-blended fuel" shall mean a blend of biodiesel  
6 and conventional diesel fuel. For all tax years beginning on or after January 1, 2009, a  
7 taxpayer who purchases E-85 gasoline, biodiesel, or biodiesel-blended fuel in a tax year  
8 shall be allowed to claim a tax credit against the tax otherwise due under this chapter,  
9 excluding sections 143.191 to 143.265, in the following amounts:

10 (1) For calendar year 2009, the amount of the credit shall be equal to twenty-five  
11 cents per gallon of E-85 gasoline or equal to five cents per gallon of biodiesel or biodiesel-  
12 blended fuel purchased by the taxpayer;

13 (2) For calendar years 2010 and 2011, the amount of the credit shall be equal to  
14 twenty cents per gallon of E-85 gasoline or equal to three cents per gallon of biodiesel or  
15 biodiesel-blended fuel purchased by the taxpayer;

16 (3) For calendar year 2012 and each subsequent calendar year, the amount of the  
17 credit shall be equal to fifteen cents per gallon of E-85 gasoline or equal to five cents per  
18 gallon of biodiesel or biodiesel-blended fuel purchased by the taxpayer.

19 2. The amount of credits claimed per taxpayer annually shall not exceed five  
20 hundred dollars. The minimum amount of tax credits a taxpayer may claim shall not be  
21 less than fifty dollars. A taxpayer shall claim the credit allowed by this section at the time  
22 such taxpayer files a return. In the event the amount of the tax credit provided under this  
23 section exceeds a taxpayer's income tax liability, no refund shall result, but such excess tax  
24 credits may be carried forward to any of the taxpayer's three subsequent tax years. The  
25 aggregate amount of tax credits which may be redeemed in any fiscal year shall not exceed  
26 five hundred thousand dollars. The tax credit shall be available regardless of whether the  
27 taxpayer opts to take a standard deduction. The department of revenue is authorized to  
28 adopt any rule or regulations deemed necessary for the effective administration of this  
29 section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,  
30 that is created under the authority delegated in this section shall become effective only if  
31 it complies with and is subject to all of the provisions of chapter 536, RSMo, and if

32 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable  
33 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,  
34 to review, to delay the effective date, or to disapprove and annul a rule are subsequently  
35 held unconstitutional, then the grant of rulemaking authority and any rule proposed or  
36 adopted after August 28, 2008, shall be invalid and void.

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

38       **(1) The provisions of the new program authorized under this section shall sunset**  
39 **automatically six years after the effective date of this section unless reauthorized by an act**  
40 **of the general assembly; and**

41       **(2) If such program is reauthorized, the program authorized under this section**  
42 **shall sunset automatically twelve years after the effective date of the reauthorization of this**  
43 **section; and**

44       **(3) This section shall terminate on September first of the calendar year immediately**  
45 **following the calendar year in which the program authorized under this section is sunset.**

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

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