

SECOND REGULAR SESSION

HOUSE BILL NO. 1610

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MCGAUGH.

5591L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 135.710, RSMo, and to enact in lieu thereof one new section relating to an alternative fuel tax credit.

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

Section A. Section 135.710, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 135.710, to read as follows:

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

(1) **"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 private citizens;**

(2) "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;

(g) Hydrogen;

~~[(2)]~~ (3) "Department", the department of natural resources;

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 (4) **"Electric vehicle recharging property", property in this state owned by an**
17 **eligible applicant and used for recharging electric motor vehicles owned by such eligible**
18 **applicant or private citizens;**

19 [(3)] (5) "Eligible applicant", a business entity that is the owner of [a qualified] **an**
20 **electric vehicle recharging property or an** alternative fuel vehicle refueling property;

21 (6) **"Qualified Missouri contractor", a contractor whose principal place of business**
22 **is located in Missouri and has been located in Missouri for a period of not less than five**
23 **years;**

24 [(4)] (7) "Qualified [alternative fuel vehicle refueling] property", [property in this state
25 owned by an eligible applicant and used for storing alternative fuels and for dispensing such
26 alternative fuels into fuel tanks of motor vehicles owned by such eligible applicant or private
27 citizens] **an electric vehicle recharging property or an alternative fuel vehicle recharging**
28 **property** which, if constructed after August 28, [2008] **2014**, was constructed with at least
29 fifty-one percent of the costs being paid to qualified Missouri contractors for the:

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

32 (b) Construction of such facility; and

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

35

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

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

41 2. For all tax years beginning on or after January 1, [2009] **2015**, but before January 1,
42 [2012] **2021**, any eligible applicant who installs and operates a qualified [alternative fuel vehicle
43 refueling] property shall be allowed a credit against the tax otherwise due under chapter 143,
44 excluding withholding tax imposed by sections 143.191 to 143.265, or due under chapter 147
45 or chapter 148 for any tax year in which the applicant is constructing the [refueling] **qualified**
46 **property**. The credit allowed in this section per eligible applicant shall not exceed the lesser of
47 twenty thousand dollars or twenty percent of the total costs directly associated with the purchase
48 and installation of any alternative fuel storage and dispensing equipment **or any recharging**
49 **equipment** on any qualified [alternative fuel vehicle refueling] property, which shall not include
50 the following:

51 (1) Costs associated with the purchase of land upon which to place a qualified
52 [alternative fuel vehicle refueling] property;

53 (2) Costs associated with the purchase of an existing qualified [alternative fuel vehicle
54 refueling] property; or

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

56 3. Tax credits allowed by this section shall be claimed by the eligible applicant at the
57 time such applicant files a return for the tax year in which the storage and dispensing **or**
58 **recharging** facilities were placed in service at a qualified [alternative fuel vehicle refueling]
59 property, and shall be applied against the income tax liability imposed by chapter 143, chapter
60 147, or chapter 148 after all other credits provided by law have been applied. The cumulative
61 amount of tax credits which may be claimed by eligible applicants claiming all credits authorized
62 in this section shall not exceed [the following amounts:

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

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

65 (3) In taxable year 2011,] one million dollars **in any calendar year**.

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

71 5. [An alternative fuel vehicle refueling] **Any qualified** property, for which an eligible
72 applicant receives tax credits under this section, which ceases to sell alternative fuel **or recharge**
73 **electric vehicles** shall cause the forfeiture of such eligible applicant's tax credits provided under
74 this section for the taxable year in which the [alternative fuel vehicle refueling] **qualified**
75 property ceased to sell alternative fuel **or recharge electric vehicles** and for future taxable years
76 with no recapture of tax credits obtained by an eligible applicant with respect to such applicant's
77 tax years which ended before the sale of alternative fuel **or recharging of electric vehicles**
78 ceased.

79 6. The director of revenue shall establish the procedure by which the tax credits in this
80 section may be claimed, and shall establish a procedure by which the cumulative amount of tax
81 credits is apportioned equally among all eligible applicants claiming the credit. To the maximum
82 extent possible, the director of revenue shall establish the procedure described in this subsection
83 in such a manner as to ensure that eligible applicants can claim all the tax credits possible up to
84 the cumulative amount of tax credits available for the taxable year. No eligible applicant
85 claiming a tax credit under this section shall be liable for any interest or penalty for filing a tax

86 return after the date fixed for filing such return as a result of the apportionment procedure under
87 this subsection.

88 7. Any eligible applicant desiring to claim a tax credit under this section shall submit the
89 appropriate application for such credit with the department. The application for a tax credit
90 under this section shall include any information required by the department. The department
91 shall review the applications and certify to the department of revenue each eligible applicant that
92 qualifies for the tax credit.

93 8. The department and the department of revenue may promulgate rules to implement
94 the provisions of this section. Any rule or portion of a rule, as that term is defined in section
95 536.010, that is created under the authority delegated in this section shall become effective only
96 if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
97 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the
98 general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove
99 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority
100 and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

101 9. [Pursuant to] **The provisions of** section 23.253 of the Missouri sunset act
102 **notwithstanding:**

103 (1) The provisions of the new program authorized under this section shall automatically
104 sunset six years after [August 28, 2008] **December 31, 2014**, unless reauthorized by an act of
105 the general assembly; and

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

109 (3) This section shall terminate on December thirty-first of the calendar year immediately
110 following the calendar year in which the program authorized under this section is sunset; **and**

111 (4) **The provisions of this subsection shall not be construed to limit or in any way**
112 **impair the department's ability to redeem tax credits authorized on or before the date the**
113 **program authorized under this section expires or a taxpayer's ability to redeem such tax**
114 **credits.**

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