

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By \_\_\_\_\_

1 AMEND House Committee Substitute for Senate Substitute for Senate Bill No. 138, Page 1, Section  
2 A, Line 3, by inserting after all of said section and line the following:

3  
4 "135.772. 1. For the purposes of this section, the following terms shall mean:

5 (1) "Department", the Missouri department of revenue;

6 (2) "Distributor", a person, firm, or corporation doing business in this state that:

7 (a) Produces, refines, blends, compounds, or manufactures motor fuel;

8 (b) Imports motor fuel into the state; or

9 (c) Is engaged in distribution of motor fuel;

10 (3) "Higher ethanol blend", a fuel capable of being dispensed directly into motor vehicle  
11 fuel tanks for consumption that is comprised of at least fifteen percent but not more than eighty-five  
12 percent ethanol;

13 (4) "Retail dealer", a person, firm, or corporation doing business in this state that owns or  
14 operates a retail service station in this state;

15 (5) "Retail service station", a location in this state from which higher ethanol blend is sold to  
16 the general public and is dispensed directly into motor vehicle fuel tanks for consumption.

17 2. For all tax years beginning on or after January 1, 2023, a retail dealer that sells higher  
18 ethanol blend at such retail dealer's retail service station or a distributor that sells higher ethanol  
19 blend directly to the final user located in this state shall be allowed a tax credit to be taken against  
20 the retail dealer's or distributor's state income tax liability. The amount of the credit shall equal five  
21 cents per gallon of higher ethanol blend sold by the retail dealer and dispensed through metered  
22 pumps at the retail dealer's retail service station or by a distributor directly to the final user located  
23 in this state during the tax year for which the tax credit is claimed. For any retail dealer or  
24 distributor with a tax year beginning prior to January 1, 2023, but ending during the 2023 calendar  
25 year, such retail dealer or distributor shall be allowed a tax credit for the amount of higher ethanol  
26 blend sold during the portion of such tax year that occurs during the 2023 calendar year. Tax credits  
27 authorized pursuant to this section shall not be transferred, sold, or assigned. If the amount of the  
28 tax credit exceeds the taxpayer's state tax liability, the difference shall not be refundable but may be  
29 carried forward to any of the five subsequent tax years. The total amount of tax credits issued  
30 pursuant to this section for any given fiscal year shall not exceed five million dollars.

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

3. In the event the total amount of tax credits claimed under this section exceeds the amount of available tax credits, the tax credits shall be apportioned among all eligible retail dealers and distributors claiming a tax credit by April fifteenth, or as directed by section 143.851, of the fiscal year in which the tax credit is claimed.

4. The tax credit allowed by this section shall be claimed by such taxpayer at the time such taxpayer files a return and shall be applied against the income tax liability imposed by chapter 143, excluding the withholding tax imposed by sections 143.191 to 143.265, after reduction for all other credits allowed thereon. The department may require any documentation it deems necessary to implement the provisions of this section.

5. The department shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after ~~the effective date of this section~~ January 2, 2023, shall be invalid and void.

6. Under section 23.253 of the Missouri sunset act:

(1) The provisions of this section shall automatically sunset on December 31, 2028, unless reauthorized by an act of the general assembly; and

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

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

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

(1) "Biodiesel blend", a blend of diesel fuel and biodiesel fuel of at least five percent and not more than twenty percent for on-road and off-road diesel-fueled vehicle use;

(2) "Biodiesel fuel", a renewable, biodegradable, mono alkyl ester combustible liquid fuel that is derived from agricultural and other plant oils or animal fats and that meets the most recent version of the ASTM International D6751 Standard Specification for Biodiesel Fuel Blend Stock. A fuel shall be deemed to be biodiesel fuel if the fuel consists of a pure B100 or B99 ratio. Biodiesel produced from palm oil is not biodiesel fuel for the purposes of this section unless the palm oil is contained within waste oil and grease collected within the United States;

(3) "B99", a blend of ninety-nine percent biodiesel fuel that meets the most recent version of the ASTM International D6751 Standard Specification for Biodiesel Fuel Blend Stock with a minimum of one-tenth of one percent and maximum of one percent diesel fuel that meets the most recent version of the ASTM International D975 Standard Specification for Diesel Fuel;

(4) "Department", the Missouri department of revenue;

(5) "Distributor", a person, firm, or corporation doing business in this state that:

- 1 (a) Produces, refines, blends, compounds, or manufactures motor fuel;
- 2 (b) Imports motor fuel into the state; or
- 3 (c) Is engaged in distribution of motor fuel;
- 4 (6) "Retail dealer", a person, firm, or corporation doing business in this state that owns or
- 5 operates a retail service station in this state;
- 6 (7) "Retail service station", a location in this state from which biodiesel blend is sold to the
- 7 general public and is dispensed directly into motor vehicle fuel tanks for consumption at retail.
- 8 2. For all tax years beginning on or after January 1, 2023, a retail dealer that sells a biodiesel
- 9 blend at a retail service station or a distributor that sells a biodiesel blend directly to the final user
- 10 located in this state shall be allowed a tax credit to be taken against the retail dealer or distributor's
- 11 state income tax liability. For any retail dealer or distributor with a tax year beginning prior to
- 12 January 1, 2023, but ending during the 2023 calendar year, such retail dealer or distributor shall be
- 13 allowed a tax credit for the amount of biodiesel blend sold during the portion of such tax year that
- 14 occurs during the 2023 calendar year. The amount of the credit shall be equal to:
- 15 (1) Two cents per gallon of biodiesel blend of at least five percent but not more than ten
- 16 percent sold by the retail dealer at a retail service station or by a distributor directly to the final user
- 17 located in this state during the tax year for which the tax credit is claimed; and
- 18 (2) Five cents per gallon of biodiesel blend in excess of ten percent but not more than
- 19 twenty percent sold by the retail dealer at a retail service station or by a distributor directly to the
- 20 final user located in this state during the tax year for which the tax credit is claimed.
- 21 3. Tax credits authorized under this section shall not be transferred, sold, or assigned. If the
- 22 amount of the tax credit exceeds the taxpayer's state tax liability, the difference shall be refundable.
- 23 The total amount of tax credits issued under this section for any given fiscal year shall not exceed
- 24 sixteen million dollars.
- 25 4. In the event the total amount of tax credits claimed under this section exceeds the amount
- 26 of available tax credits, the tax credits shall be apportioned among all eligible retail dealers and
- 27 distributors claiming a tax credit by April fifteenth, or as directed by section 143.851, of the fiscal
- 28 year in which the tax credit is claimed.
- 29 5. The tax credit allowed by this section shall be claimed by such taxpayer at the time such
- 30 taxpayer files a return and shall be applied against the income tax liability imposed by chapter 143,
- 31 excluding the withholding tax imposed by sections 143.191 to 143.265, after reduction for all other
- 32 credits allowed thereon. The department may require any documentation it deems necessary to
- 33 administer the provisions of this section.
- 34 6. ~~[Notwithstanding any other provision of law to the contrary, if the maximum amount of~~
- 35 ~~tax credits authorized by this section are not claimed, the remaining amount of tax credits available~~
- 36 ~~to claim shall be applied to the tax credit in section 135.778 if the maximum amount of tax credits~~
- 37 ~~authorized by section 135.778 have been claimed.~~
- 38 7.] Notwithstanding the provisions of section 32.057 to the contrary, the department may
- 39 work with the division of weights and measures within the department of agriculture to validate that

1 the biodiesel blend a retail dealer or distributor claims for the tax credit authorized under this section  
2 contains a sufficient percentage of biodiesel fuel.

3 ~~[8:]~~ 7. The department shall promulgate rules to implement and administer the provisions of  
4 this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created  
5 pursuant to the authority delegated in this section shall become effective only if it complies with and  
6 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and  
7 chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to  
8 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently  
9 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after  
10 January 2, 2023, shall be invalid and void.

11 ~~[9:]~~ 8. Under section 23.253 of the Missouri sunset act:

12 (1) The provisions of the new program authorized under this section shall automatically  
13 sunset on December 31, 2028, unless reauthorized by an act of the general assembly;

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

16 (3) This section shall terminate on September first of the calendar year immediately  
17 following the calendar year in which the program authorized under this section is sunset. The  
18 termination of the program as described in this subsection shall not be construed to preclude any  
19 qualified taxpayer who claims any benefit under any program that is sunset under this subsection  
20 from claiming such benefit for all allowable activities related to such claim that were completed  
21 before the program was sunset or to eliminate any responsibility of the department to verify the  
22 continued eligibility of qualified individuals receiving tax credits and to enforce other requirements  
23 of law that applied before the program was sunset.

24 135.778. 1. For the purposes of this section, the following terms shall mean:

25 (1) "Biodiesel fuel", a renewable, biodegradable, mono alkyl ester combustible liquid fuel  
26 that is derived from agricultural and other plant oils or animal fats and that meets the most recent  
27 version of the ASTM International D6751 Standard Specification for Biodiesel Fuel Blend Stock. A  
28 fuel shall be deemed to be biodiesel fuel if the fuel consists of a pure B100 or B99 ratio. Biodiesel  
29 produced from palm oil is not biodiesel fuel for the purposes of this section unless the palm oil is  
30 contained within waste oil and grease collected within the United States;

31 (2) "B99", a blend of ninety-nine percent biodiesel fuel that meets the most recent version of  
32 the ASTM International D6751 Standard Specification for Biodiesel Fuel Blend Stock with a  
33 minimum of one-tenth of one percent and maximum of one percent diesel fuel that meets the most  
34 recent version of the ASTM International D975 Standard Specification for Diesel Fuel;

35 (3) "Department", the Missouri department of revenue;

36 (4) "Missouri biodiesel producer", a person, firm, or corporation doing business in this state  
37 that produces biodiesel fuel in this state, is registered with the United States Environmental  
38 Protection Agency according to the requirements of 40 CFR Part 79, and has begun construction on

1 such facility or has been selling biodiesel fuel produced at such facility on or before January 2,  
2 2023.

3 2. For all tax years beginning on or after January 1, 2023, a Missouri biodiesel producer  
4 shall be allowed a tax credit to be taken against the producer's state income tax liability. For any  
5 Missouri biodiesel producer with a tax year beginning prior to January 1, 2023, but ending during  
6 the 2023 calendar year, such Missouri biodiesel producer shall be allowed a tax credit for the  
7 amount of biodiesel fuel produced during the portion of such tax year that occurs during the 2023  
8 calendar year. The amount of the tax credit shall be two cents per gallon of biodiesel fuel produced  
9 by the Missouri biodiesel producer during the tax year for which the tax credit is claimed.

10 3. Tax credits authorized under this section shall not be transferred, sold, or assigned. If the  
11 amount of the tax credit exceeds the taxpayer's state tax liability, the difference shall be refundable.  
12 The total amount of tax credits issued under this section for any given fiscal year shall not exceed  
13 [four] five million five hundred thousand dollars, which shall be authorized on a first-come, first-  
14 served basis.

15 4. ~~[In the event the total amount of tax credits claimed under this section exceeds the~~  
16 ~~amount of available tax credits, the tax credits shall be apportioned among all eligible Missouri~~  
17 ~~biodiesel producers claiming the credit by April fifteenth, or as directed by section 143.851, of the~~  
18 ~~fiscal year in which the tax credit is claimed.~~

19 5.] The tax credit authorized under this section shall be claimed by such taxpayer at the time  
20 such taxpayer files a return and shall be applied against the income tax liability imposed by chapter  
21 143, excluding the withholding tax imposed by sections 143.191 to 143.265, after reduction for all  
22 other credits allowed thereon. The department may require any documentation it deems necessary  
23 to administer the provisions of this section.

24 ~~[6. Notwithstanding any other provision of law to the contrary, if the maximum amount of~~  
25 ~~tax credits authorized by this section are not claimed, the remaining amount of tax credits available~~  
26 ~~to claim shall be applied to the tax credit in section 135.775 if the maximum amount of tax credits~~  
27 ~~authorized by section 135.775 have been claimed.~~

28 7.] 5. The department shall promulgate rules to implement and administer the provisions of  
29 this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created  
30 pursuant to the authority delegated in this section shall become effective only if it complies with and  
31 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and  
32 chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to  
33 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently  
34 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after  
35 January 2, 2023, shall be invalid and void.

36 ~~[8.]~~ 6. Under section 23.253 of the Missouri sunset act:

37 (1) The provisions of the new program authorized under this section shall automatically  
38 sunset on December 31, 2028, unless reauthorized by an act of the general assembly;

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

3           (3) This section shall terminate on September first of the calendar year immediately  
4 following the calendar year in which the program authorized under this section is sunset. The  
5 termination of the program as described in this subsection shall not be construed to preclude any  
6 qualified taxpayer who claims any benefit under any program that is sunset under this subsection  
7 from claiming such benefit for all allowable activities related to such claim that were completed  
8 before the program was sunset, or to eliminate any responsibility of the department to verify the  
9 continued eligibility of qualified individuals receiving tax credits and to enforce other requirements  
10 of law that applied before the program was sunset."; and

11  
12 Further amend said bill by amending the title, enacting clause, and intersectional references  
13 accordingly.