

House _____ Amendment NO. _____

Offered By

1 AMEND House Bill No. 519, Page 1, Section A, Line 2, by inserting after all of said section and
2 line the following:

3
4 "142.815. 1. Motor fuel used for the following nonhighway purposes is exempt from the
5 fuel tax imposed by this chapter, and a refund may be claimed by the consumer, except as provided
6 for in subdivision (1) of this subsection, if the tax has been paid and no refund has been previously
7 issued:

8 (1) Motor fuel used for nonhighway purposes including fuel for farm tractors or stationary
9 engines owned or leased and operated by any person and used exclusively for agricultural purposes
10 and including, beginning January 1, 2006, bulk sales of one hundred gallons or more of gasoline
11 made to farmers and delivered by the ultimate vender to a farm location for agricultural purposes
12 only. As used in this section, the term "farmer" shall mean any person engaged in farming in an
13 authorized farm corporation, family farm, or family farm corporation as defined in section 350.010.
14 At the discretion of the ultimate vender, the refund may be claimed by the ultimate vender on behalf
15 of the consumer for sales made to farmers and to persons engaged in construction for agricultural
16 purposes as defined in section 142.800. After December 31, 2000, the refund may be claimed only
17 by the consumer and may not be claimed by the ultimate vender unless bulk sales of gasoline are
18 made to a farmer after January 1, 2006, as provided in this subdivision and the farmer provides an
19 exemption certificate to the ultimate vender, in which case the ultimate vender may make a claim
20 for refund under section 142.824 but shall be liable for any erroneous refund;

21 (2) Kerosene sold for use as fuel to generate power in aircraft engines, whether in aircraft or
22 for training, testing or research purposes of aircraft engines;

23 (3) Diesel fuel used as heating oil, or in railroad locomotives or any other motorized
24 flanged-wheel rail equipment, or used for other nonhighway purposes other than as expressly
25 exempted pursuant to another provision.

26 2. Subject to the procedural requirements and conditions set out in this chapter, the
27 following uses are exempt from the tax imposed by section 142.803 on motor fuel, and a deduction
28 or a refund may be claimed:

29 (1) (a) Motor fuel for which proof of export is available in the form of a terminal-issued
30 destination state shipping paper and which is either:

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1 ~~[(a)]~~ a. Exported by a supplier who is licensed in the destination state or through the bulk
2 transfer system;

3 ~~[(b)]~~ b. Removed by a licensed distributor for immediate export to a state for which all the
4 applicable taxes and fees (however nominated in that state) of the destination state have been paid to
5 the supplier, as a trustee, who is licensed to remit tax to the destination state; or which is destined for
6 use within the destination state by the federal government for which an exemption has been made
7 available by the destination state subject to procedural rules and regulations promulgated by the
8 director; or

9 ~~[(c)]~~ c. Acquired by a licensed distributor and which the tax imposed by this chapter has
10 previously been paid or accrued either as a result of being stored outside of the bulk transfer system
11 immediately prior to loading or as a diversion across state boundaries properly reported in
12 conformity with this chapter and was subsequently exported from this state on behalf of the
13 distributor~~];~~.

14 (b) The exemption pursuant to subparagraph a. of paragraph (a) of this subdivision shall be
15 claimed by a deduction on the report of the supplier which is otherwise responsible for remitting the
16 tax upon removal of the product from a terminal or refinery in this state.

17 (c) The ~~[exemption]~~ exemptions pursuant to ~~[paragraphs (b) and (c)]~~ subparagraphs b. and c.
18 of paragraph (a) of this subdivision shall be claimed by the distributor, upon a refund application
19 made to the director within three years.

20 (d) A refund claim may be made monthly or whenever the claim exceeds one thousand
21 dollars;

22 (2) Undyed K-1 kerosene sold at retail through dispensers which have been designed and
23 constructed to prevent delivery directly from the dispenser into a vehicle fuel supply tank, and
24 undyed K-1 kerosene sold at retail through nonbarricaded dispensers in quantities of not more than
25 twenty-one gallons for use other than for highway purposes. Exempt use of undyed kerosene shall
26 be governed by rules and regulations of the director. If no rules or regulations are promulgated by
27 the director, then the exempt use of undyed kerosene shall be governed by rules and regulations of
28 the Internal Revenue Service. A distributor or supplier delivering to a retail facility shall obtain an
29 exemption certificate from the owner or operator of such facility stating that its sales conform to the
30 dispenser requirements of this subdivision. A licensed distributor, having obtained such certificate,
31 may provide a copy to his or her supplier and obtain undyed kerosene without the tax levied by
32 section 142.803. Having obtained such certificate in good faith, such supplier shall be relieved of
33 any responsibility if the fuel is later used in a taxable manner. An ultimate vendor who obtained
34 undyed kerosene upon which the tax levied by section 142.803 had been paid and makes sales
35 qualifying pursuant to this subsection may apply for a refund of the tax pursuant to application, as
36 provided in section 142.818, to the director provided the ultimate vendor did not charge such tax to
37 the consumer;

38 (3) Motor fuel sold to the United States or any agency or instrumentality thereof. This
39 exemption shall be claimed as provided in section 142.818;

1 (4) Motor fuel used solely and exclusively as fuel to propel motor vehicles on the public
2 roads and highways of this state when leased or owned and when being operated by a federally
3 recognized Indian tribe in the performance of essential governmental functions, such as providing
4 police, fire, health or water services. The exemption for use pursuant to this subdivision shall be
5 made available to the tribal government upon a refund application stating that the motor fuel was
6 purchased for the exclusive use of the tribe in performing named essential governmental services;

7 (5) That portion of motor fuel used to operate equipment attached to a motor vehicle, if the
8 motor fuel was placed into the fuel supply tank of a motor vehicle that has a common fuel reservoir
9 for travel on a highway and for the operation of equipment, or if the motor fuel was placed in a
10 separate fuel tank and used only for the operation of auxiliary equipment. The exemption for use
11 pursuant to this subdivision shall be claimed by a refund claim filed by the consumer who shall
12 provide evidence of an allocation of use satisfactory to the director;

13 (6) Motor fuel acquired by a consumer out-of-state and carried into this state, retained
14 within and consumed from the same vehicle fuel supply tank within which it was imported, except
15 interstate motor fuel users;

16 (7) Motor fuel which was purchased tax-paid and which was lost or destroyed as a direct
17 result of a sudden and unexpected casualty or which had been accidentally contaminated so as to be
18 unsalable as highway fuel as shown by proper documentation as required by the director. The
19 exemption pursuant to this subdivision shall be refunded to the person or entity owning the motor
20 fuel at the time of the contamination or loss. Such person shall notify the director in writing of such
21 event and the amount of motor fuel lost or contaminated within ten days from the date of discovery
22 of such loss or contamination, and within thirty days after such notice, shall file an affidavit sworn
23 to by the person having immediate custody of such motor fuel at the time of the loss or
24 contamination, setting forth in full the circumstances and the amount of the loss or contamination
25 and such other information with respect thereto as the director may require;

26 (8) Dyed diesel fuel or dyed kerosene used for an exempt purpose. This exemption shall be
27 claimed as follows:

28 (a) A supplier or importer shall take a deduction against motor fuel tax owed on their
29 monthly report for those gallons of dyed diesel fuel or dyed kerosene imported or removed from a
30 terminal or refinery destined for delivery to a point in this state as shown on the shipping papers;

31 (b) This exemption shall be claimed by a deduction on the report of the supplier which is
32 otherwise responsible for remitting the tax on removal of the product from a terminal or refinery in
33 this state; and

34 (c) This exemption shall be claimed by the distributor, upon a refund application made to
35 the director within three years. A refund claim may be made monthly or whenever the claim
36 exceeds one thousand dollars; and

37 (9) Motor fuel delivered to any marina within this state that sells such fuel solely for use in
38 any watercraft, as such term is defined in section 306.010, and not accessible to other motor
39 vehicles, is exempt from the fuel tax imposed by this chapter. Any motor fuel distributor that

1 delivers motor fuel to any marina in this state for use solely in any watercraft, as such term is
 2 defined in section 306.010, may claim the exemption provided in this subsection. Any motor fuel
 3 customer who purchases motor fuel for use in any watercraft, as such term is defined in section
 4 306.010, at a location other than a marina within this state may claim the exemption provided in this
 5 subsection by filing a claim for refund of the fuel tax.

6 3. (1) Beginning on October 1, 2023, an entity exempt from taxation as provided by Section
 7 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. Section 501), as amended, to which an
 8 individual, person, or entity that is eligible to claim a refund as provided in this section submits all
 9 documentation and information required to make a refund application may make a claim for such
 10 individual's, person's, or entity's refund as provided in this section. Upon approval, the refund shall
 11 be made to such exempt entity.

12 (2) A taxpayer who is an individual, person, or entity that submits the required information
 13 to an exempt entity as described in subdivision (1) of this subsection shall be allowed to subtract
 14 from such taxpayer's Missouri adjusted gross income to determine Missouri taxable income an
 15 amount equal to the total amount eligible for a refund submitted to an exempt entity under
 16 subdivision (1) of this section for the same tax year. Such amount shall be deductible only to the
 17 extent that such amount is not deducted on the taxpayer's federal income tax return for that tax year.
 18 The department of revenue shall promulgate rules and regulations to administer the provisions of
 19 this section."; and

20
 21 Further amend said bill and page, Section 142.822, Line 1, by deleting all of said line and inserting
 22 in lieu thereof the following:

23
 24 "142.822. 1. (1) As used in this section and section 142.824, "nonprofit entity" means any
 25 entity that is exempt from taxation as provided in Section 501(c)(3) of the Internal Revenue Code of
 26 1986 (26 U.S.C. Section 501), as amended.

27 (2) Motor fuel used for purposes of propelling motor vehicles on highways"; and
 28

29 Further amend said bill, page, and section, Line 5, by deleting all of said lines and inserting in lieu
 30 thereof the following:

31
 32 "as specified in this section. Beginning on and after October 1, 2023, any nonprofit entity to which
 33 a taxpayer who is eligible to claim a refund as provided in this section submits all documentation
 34 and information required to make a refund application may make a claim for such taxpayer's refund
 35 as provided in this section. Upon approval, the refund shall be made to such nonprofit entity."; and
 36

37 Further amend said bill and section, Page 2, Line 26, by deleting all of said line and inserting lieu
 38 thereof the following:

39

1 "is claimed. The claim shall [~~not be transferred or assigned, and shall~~] be filed on or after July";
2 and

3
4 Further amend said bill, page, and section, Lines 35-36, by deleting all of said lines and inserting in
5 lieu thereof the following:

6
7 "(5) Number of gallons purchased; [~~and~~]

8 (6) Number of gallons purchased and charged Missouri fuel tax, as a separate item; and

9 (7) If the claim is submitted by a nonprofit entity:

10 (a) Documentation of the nonprofit entity's tax-exempt status; and

11 (b) A statement signed by the purchaser indicating that the nonprofit entity is entitled to the
12 purchaser's refund."; and

13
14 Further amend said bill and section, Page 3, Line 57, by adding at the end of said line the following:

15
16 "The requirement to maintain records shall be the responsibility of any nonprofit entity to which a
17 purchaser submits claim records required by this section."; and

18
19 Further amend said bill, page, and section, Line 77, by adding the following after all of said
20 section and line:

21 "142.824. 1. To claim a refund in accordance with section 142.815, a person shall present to
22 the director a statement containing a written verification that the claim is made under penalties of
23 perjury and lists the total amount of motor fuel purchased and used for exempt purposes. Beginning
24 on October 1, 2023, any nonprofit entity to which a person who is eligible to claim a refund as
25 provided in this section submits all documentation and information required to make a refund
26 application may make a claim for such person's refund as provided in this section. Upon approval,
27 the refund shall be made to such nonprofit entity. The claim shall [~~not be transferred or assigned~~
28 ~~and shall~~] be filed not more than three years after the date the motor fuel was imported, removed or
29 sold if the claimant is a supplier, importer, exporter or distributor. If the claim is filed by the
30 ultimate consumer, a consumer must file the claim within one year of the date of purchase or April
31 fifteenth following the year of purchase, whichever is later. The claim statement may be submitted
32 electronically, and shall be supported by documentation as approved by the director and shall
33 include the following information:

34 (1) Date of sale;

35 (2) Name and address of purchaser;

36 (3) Name and address of seller;

37 (4) Number of gallons purchased and base price per gallon;

38 (5) Number of gallons purchased and charged Missouri fuel tax, as a separate item; [~~and~~]

39 (6) Number of gallons purchased and charged sales tax, if applicable, as a separate item; and

1 (7) If the claim is submitted by a nonprofit entity:

2 (a) Documentation of the nonprofit entity's tax-exempt status; and

3 (b) A statement signed by the purchaser indicating that the nonprofit entity is entitled to the
4 purchaser's refund.

5 2. If the original sales slip or invoice is lost or destroyed, a statement to that effect shall
6 accompany the claim for refund, and the claim statement shall also set forth the serial number of the
7 invoice. If the director finds the claim is otherwise regular, the director may allow such claim for
8 refund.

9 3. The director may make any investigation necessary before refunding the motor fuel tax to
10 a person and may investigate a refund after the refund has been issued and within the time frame for
11 making adjustments to the tax pursuant to this chapter.

12 4. In any case where a refund would be payable to a supplier pursuant to this chapter, the
13 supplier may claim a credit in lieu of such refund for a period not to exceed three years.

14 5. Every person shall maintain and keep for a period of three years records to substantiate all
15 claims for refund of the motor fuel tax, together with invoices, original sales slips marked paid by
16 the seller, bills of lading, and other pertinent records and paper as may be required by the director
17 for reasonable administration of this chapter. The requirement to maintain records shall be the
18 responsibility of any nonprofit entity to which a purchaser submits claim records required by this
19 section.

20 6. Motor fuel tax that has been paid more than once with respect to the same gallon of motor
21 fuel shall be refunded by the director to the person who last paid the tax after the subsequent taxable
22 event upon submitting proof satisfactory to the director.

23 7. Motor fuel tax that has otherwise been erroneously paid by a person shall be refunded by
24 the director upon proof shown satisfactory to the director.

25 8. If a refund is not issued within forty-five days of an accurate and complete filing, as
26 required by this chapter, the director shall pay interest at the rate provided in section 32.065
27 accruing after the expiration of the forty-five-day period until the date the refund is issued.

28 9. The director shall promulgate rules as necessary to implement the provisions of this
29 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
30 under the authority delegated in this section shall become effective only if it complies with and is
31 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 August 28, 2021, shall be invalid and void."; and

36
37 Further amend said bill by amending the title, enacting clause, and intersectional references
38 accordingly.