

FIRST REGULAR SESSION

# HOUSE BILL NO. 925

## 102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE HAFFNER.

2107H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal sections 135.775 and 135.778, RSMo, and to enact in lieu thereof two new sections relating to a tax credit for the production of biodiesel fuel.

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

Section A. Sections 135.775 and 135.778, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 135.775 and 135.778, to read as follows:

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

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

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

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

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

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

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.

- 18 (a) Produces, refines, blends, compounds, or manufactures motor fuel;  
19 (b) Imports motor fuel into the state; or  
20 (c) Is engaged in distribution of motor fuel;  
21 (6) "Retail dealer", a person, firm, or corporation doing business in this state that  
22 owns or operates a retail service station in this state;  
23 (7) "Retail service station", a location in this state from which biodiesel blend is sold  
24 to the general public and is dispensed directly into motor vehicle fuel tanks for consumption  
25 at retail.

26 2. For all tax years beginning on or after January 1, 2023, a retail dealer that sells a  
27 biodiesel blend at a retail service station or a distributor that sells a biodiesel blend directly to  
28 the final user located in this state shall be allowed a tax credit to be taken against the retail  
29 dealer or distributor's state income tax liability. The amount of the credit shall be equal to:

30 (1) Two cents per gallon of biodiesel blend of at least five percent but not more than  
31 ten percent sold by the retail dealer at a retail service station or by a distributor directly to the  
32 final user located in this state during the tax year for which the tax credit is claimed; and

33 (2) Five cents per gallon of biodiesel blend in excess of ten percent but not more than  
34 twenty percent sold by the retail dealer at a retail service station or by a distributor directly to  
35 the final user located in this state during the tax year for which the tax credit is claimed.

36 3. Tax credits authorized under this section shall not be transferred, sold, or assigned.  
37 If the amount of the tax credit exceeds the taxpayer's state tax liability, the difference shall be  
38 refundable. The total amount of tax credits issued under this section for any given fiscal year  
39 shall not exceed sixteen million dollars.

40 4. In the event the total amount of tax credits claimed under this section exceeds the  
41 amount of available tax credits, the tax credits shall be apportioned among all eligible retail  
42 dealers and distributors claiming a tax credit by April fifteenth, or as directed by section  
43 143.851, of the fiscal year in which the tax credit is claimed.

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

49 6. ~~[Notwithstanding any other provision of law to the contrary, if the maximum~~  
50 ~~amount of tax credits authorized by this section are not claimed, the remaining amount of tax~~  
51 ~~credits available to claim shall be applied to the tax credit in section 135.778 if the maximum~~  
52 ~~amount of tax credits authorized by section 135.778 have been claimed.~~

53 7.] Notwithstanding the provisions of section 32.057 to the contrary, the department  
54 may work with the division of weights and measures within the department of agriculture to

55 validate that the biodiesel blend a retail dealer or distributor claims for the tax credit  
56 authorized under this section contains a sufficient percentage of biodiesel fuel.

57 ~~[8.]~~ 7. The department shall promulgate rules to implement and administer the  
58 provisions of this section. Any rule or portion of a rule, as that term is defined in section  
59 536.010, that is created pursuant to the authority delegated in this section shall become  
60 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if  
61 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the  
62 powers vested with the general assembly pursuant to chapter 536 to review, to delay the  
63 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then  
64 the grant of rulemaking authority and any rule proposed or adopted after January 2, 2023,  
65 shall be invalid and void.

66 ~~[9.]~~ 8. Under section 23.253 of the Missouri sunset act:

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

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

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

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

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

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

12 that meets the most recent version of the ASTM International D975 Standard Specification  
13 for Diesel Fuel;

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

15 (4) "Missouri biodiesel producer", a person, firm, or corporation doing business in  
16 this state that produces biodiesel fuel in this state, is registered with the United States  
17 Environmental Protection Agency according to the requirements of 40 CFR Part 79, and has  
18 begun construction on such facility or has been selling biodiesel fuel produced at such facility  
19 on or before January 2, 2023.

20 2. For all tax years beginning on or after January 1, 2023, a Missouri biodiesel  
21 producer shall be allowed a tax credit to be taken against the producer's state income tax  
22 liability. The amount of the tax credit shall be two cents per gallon of biodiesel fuel produced  
23 by the Missouri biodiesel producer during the tax year for which the tax credit is claimed.

24 3. Tax credits authorized under this section shall not be transferred, sold, or assigned.  
25 If the amount of the tax credit exceeds the taxpayer's state tax liability, the difference shall be  
26 refundable. ~~[The total amount of tax credits issued under this section for any given fiscal year  
27 shall not exceed four million dollars.]~~

28 4. ~~[In the event the total amount of tax credits claimed under this section exceeds the  
29 amount of available tax credits, the tax credits shall be apportioned among all eligible  
30 Missouri biodiesel producers claiming the credit by April fifteenth, or as directed by section  
31 143.851, of the fiscal year in which the tax credit is claimed.]~~

32 ~~5.]~~ The tax credit authorized under this section shall be claimed by such taxpayer at  
33 the time such taxpayer files a return and shall be applied against the income tax liability  
34 imposed by chapter 143, excluding the withholding tax imposed by sections 143.191 to  
35 143.265, after reduction for all other credits allowed thereon. The department may require  
36 any documentation it deems necessary to administer the provisions of this section.

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

41 ~~7.]~~ 5. The department shall promulgate rules to implement and administer the  
42 provisions of this section. Any rule or portion of a rule, as that term is defined in section  
43 536.010, that is created pursuant to the authority delegated in this section shall become  
44 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if  
45 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the  
46 powers vested with the general assembly pursuant to chapter 536 to review, to delay the  
47 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then

48 the grant of rulemaking authority and any rule proposed or adopted after January 2, 2023,  
49 shall be invalid and void.

50 ~~[8:]~~ **6.** Under section 23.253 of the Missouri sunset act:

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

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

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

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