

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 925**  
**102ND GENERAL ASSEMBLY**

2107H.02C

DANA RADEMAN MILLER, Chief Clerk

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**AN ACT**

To repeal sections 135.772, 135.775, and 135.778, RSMo, and to enact in lieu thereof three new sections relating to a tax credit for certain fuels.

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

Section A. Sections 135.772, 135.775, and 135.778, RSMo, are repealed and three  
2 new sections enacted in lieu thereof, to be known as sections 135.772, 135.775, and 135.778,  
3 to read as follows:

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

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

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

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

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

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

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

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

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

15 2. For all tax years beginning on or after January 1, 2023, a retail dealer that sells  
16 higher ethanol blend at such retail dealer's retail service station or a distributor that sells  
17 higher ethanol blend directly to the final user located in this state shall be allowed a tax credit

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

30 3. In the event the total amount of tax credits claimed under this section exceeds the  
31 amount of available tax credits, the tax credits shall be apportioned among all eligible retail  
32 dealers and distributors claiming a tax credit by April fifteenth, or as directed by section  
33 143.851, of the fiscal year in which the tax credit is claimed.

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

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

48 6. Under section 23.253 of the Missouri sunset act:

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

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

54 (3) This section shall terminate on September first of the calendar year immediately  
55 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:

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:

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. **For any retail dealer or distributor with a  
30 tax year beginning prior to January 1, 2023, but ending during the 2023 calendar year,  
31 such retail dealer or distributor shall be allowed a tax credit for the amount of biodiesel  
32 blend sold during the portion of such tax year that occurs during the 2023 calendar year.**  
33 The amount of the credit shall be equal to:

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

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

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

44 4. In the event the total amount of tax credits claimed under this section exceeds the  
45 amount of available tax credits, the tax credits shall be apportioned among all eligible retail  
46 dealers and distributors claiming a tax credit by April fifteenth, or as directed by section  
47 143.851, of the fiscal year in which the tax credit is claimed.

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

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

57 7.] Notwithstanding the provisions of section 32.057 to the contrary, the department  
58 may work with the division of weights and measures within the department of agriculture to  
59 validate that the biodiesel blend a retail dealer or distributor claims for the tax credit  
60 authorized under this section contains a sufficient percentage of biodiesel fuel.

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

70 [9-] 8. Under section 23.253 of the Missouri sunset act:

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

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

77 (3) This section shall terminate on September first of the calendar year immediately  
78 following the calendar year in which the program authorized under this section is sunset. The  
79 termination of the program as described in this subsection shall not be construed to preclude  
80 any qualified taxpayer who claims any benefit under any program that is sunset under this  
81 subsection from claiming such benefit for all allowable activities related to such claim that  
82 were completed before the program was sunset or to eliminate any responsibility of the  
83 department to verify the continued eligibility of qualified individuals receiving tax credits and  
84 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. **For any Missouri biodiesel producer with a tax year beginning prior to**  
23 **January 1, 2023, but ending during the 2023 calendar year, such Missouri biodiesel**

24 **producer shall be allowed a tax credit for the amount of biodiesel fuel produced during**  
25 **the portion of such tax year that occurs during the 2023 calendar year.** The amount of  
26 the tax credit shall be two cents per gallon of biodiesel fuel produced by the Missouri  
27 biodiesel producer during the tax year for which the tax credit is claimed.

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

33 4. ~~[In the event the total amount of tax credits claimed under this section exceeds the~~  
34 ~~amount of available tax credits, the tax credits shall be apportioned among all eligible~~  
35 ~~Missouri biodiesel producers claiming the credit by April fifteenth, or as directed by section~~  
36 ~~143.851, of the fiscal year in which the tax credit is claimed.~~

37 ~~5.]~~ The tax credit authorized under this section shall be claimed by such taxpayer at  
38 the time such taxpayer files a return and shall be applied against the income tax liability  
39 imposed by chapter 143, excluding the withholding tax imposed by sections 143.191 to  
40 143.265, after reduction for all other credits allowed thereon. The department may require  
41 any documentation it deems necessary to administer the provisions of this section.

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

46 ~~7.]~~ **5.** The department shall promulgate rules to implement and administer the  
47 provisions of this section. Any rule or portion of a rule, as that term is defined in section  
48 536.010, that is created pursuant to the authority delegated in this section shall become  
49 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if  
50 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the  
51 powers vested with the general assembly pursuant to chapter 536 to review, to delay the  
52 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then  
53 the grant of rulemaking authority and any rule proposed or adopted after January 2, 2023,  
54 shall be invalid and void.

55 ~~[8.]~~ **6.** Under section 23.253 of the Missouri sunset act:

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

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

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

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