

FIRST REGULAR SESSION

HOUSE BILL NO. 1366

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MAYHEW.

2555H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 142.822, RSMo, and to enact in lieu thereof one new section relating to the motor fuel tax exemption.

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

Section A. Section 142.822, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 142.822, to read as follows:

142.822. 1. Motor fuel used for purposes of propelling motor vehicles on highways shall be exempt from the fuel tax collected under subsection 3 of section 142.803, and an exemption and refund may be claimed by the taxpayer if the tax has been paid and no refund has been previously issued, provided that the taxpayer applies for the exemption and refund as specified in this section.

2. (1) The exemption and refund shall be issued on a fiscal year basis, **based on motor fuel tax paid and collected through the end of fiscal year 2023**, to each person who pays the fuel tax collected under subsection 3 of section 142.803 and who claims an exemption and refund in accordance with this section, and shall apply so that the fuel taxpayer has no liability for the tax collected in that fiscal year under subsection 3 of section 142.803.

(2) **Beginning in fiscal year 2024, exemptions and refunds issued under this section shall be based on the tax year. Any fuel taxes collected under subsection 3 of section 142.803 from July 1, 2023, to December 31, 2023, shall be reported under the provisions of subsection 4 of this section. Any fuel taxes collected under subsection 3 of section 142.803 from January 1, 2024, to December 31, 2024, and each tax year thereafter, shall be reported under the provisions of subsection 4 of this section.**

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 **Exemptions and refunds shall be issued to persons who pay the fuel tax collected under**
19 **subsection 3 of section 142.803 and who claim an exemption and refund in accordance**
20 **with this section, and shall apply so that the fuel taxpayer has no liability for the tax**
21 **collected in the corresponding tax year under subsection 3 of section 142.803.**

22 ~~[2-]~~ **3.** To claim an exemption and refund in accordance with **subdivision (1) of**
23 **subsection 2 of** this section, a person shall present to the director a statement containing a
24 written verification that the claim is made under penalty of perjury and that states the total
25 fuel tax paid in the applicable fiscal year for each vehicle for which the exemption and refund
26 is claimed. The claim shall not be transferred or assigned, and shall be filed on or after July
27 first, but not later than September thirtieth, following the fiscal year for which the exemption
28 and refund is claimed. The claim statement may be submitted electronically, and shall at a
29 minimum include the following information:

30 (1) Vehicle identification number of the motor vehicle into which the motor fuel was
31 delivered;

32 (2) Date of sale;

33 (3) Name and address of purchaser;

34 (4) Name and address of seller;

35 (5) Number of gallons purchased; and

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

37 **4. To claim an exemption and refund in accordance with subdivision (2) of**
38 **subsection 2 of this section, a person may elect to proceed under either subdivision (1) or**
39 **(2) of this subsection:**

40 (1) For a receipt-based exemption and refund under this subdivision, a person
41 shall present to the director a statement containing a written verification that the claim
42 is made under penalty of perjury and that states the total fuel tax paid in the applicable
43 tax year for each vehicle for which the exemption and refund is claimed. The claim shall
44 not be transferred or assigned and shall be filed on or after January fifteenth but not
45 later than April fifteenth after the close of the tax year for which the exemption and
46 refund is claimed. A person claiming a refund under this subdivision shall not be
47 entitled to claim a standard refund under subdivision (2) of this subsection for the same
48 tax year. The claim statement may be submitted electronically and shall at a minimum
49 include the following information:

50 (a) Vehicle identification number of the motor vehicle into which the motor fuel
51 was delivered;

52 (b) Date of sale;

53 (c) Name and address of purchaser;

54 (d) Name and address of seller;

55 (e) Number of gallons purchased;

56 (f) Number of gallons purchased and charged Missouri fuel tax, as a separate
57 item; and

58 (g) An affirmation that such person is claiming the itemized refund and shall not
59 claim the standard refund under subdivision (2) of this subsection; or

60 (2) For a standard refund under this subdivision, at the time a person files his or
61 her Missouri income tax return, a person may select to claim the exemption and refund
62 as a standard refund applied as an immediate refund or applied as a credit against the
63 person's Missouri income tax liability under chapter 143. A person claiming a standard
64 refund under this subdivision shall not be entitled to claim a receipt-based refund under
65 subdivision (1) of this subsection for the same tax year. For the purposes of this
66 subdivision, the term "standard refund" shall mean the exemption and refund provided
67 under this section, applied for and claimed by a person as a set, flat amount under
68 paragraph (a) of this subdivision, selected to be refunded to such person as either an
69 immediate refund or credit applied against the person's Missouri income tax liability
70 under chapter 143.

71 (a) The standard refund shall be allocated as follows:

72 a. Thirty dollars for the 2023 tax year;

73 b. Forty-five dollars for the 2024 tax year;

74 c. Sixty dollars for the 2025 tax year;

75 d. Seventy-five dollars for all tax years beginning on or after January 1, 2026.

76 (b) A person shall file a form, provided by the department of revenue, with such
77 person's Missouri income tax return, if applicable. The claim shall not be transferred or
78 assigned and the form shall be filed on or after January fifteenth but not later than
79 April fifteenth after the close of the tax year for which the exemption and refund is
80 claimed.

81 (c) Such form may be submitted electronically and at minimum shall include:

82 a. The person's selection of the standard refund taken as a refund or as a credit
83 against chapter 143 income taxes, as provided under this subdivision, that he or she is
84 claiming for the applicable tax year;

85 b. An affirmation that such person is claiming the standard refund and shall not
86 claim the receipt-based refund under subdivision (1) of this subsection;

87 c. The vehicle identification number of the motor vehicle into which the motor
88 fuel was delivered;

89 d. The name and address of the person making the claim;

90 e. Information or identification showing that such person was the owner of a
91 vehicle licensed in Missouri;

92 **f. An affirmation that such person made eligible purchases under this section in**
93 **the tax year for which the exemption and refund is claimed; and**

94 **g. Any other information that the department may require to fulfill the**
95 **obligations under this section.**

96 **5. The exemption and refund as reimbursed under the provisions of this section**
97 **shall be paid out of the proceeds of the additional tax under subsection 3 of section**
98 **142.803. Refunds shall not exceed the tax collected under subsection 3 of section**
99 **142.803. If amount of refunds claimed under this section in a tax year exceeds the tax**
100 **collected for the tax year, refunds shall be allowed based on the order in which they are**
101 **claimed. The qualifications provided under subsections 4 and 5 of this section shall be**
102 **subject to audit by the department.**

103 ~~[3-]~~ **6.** Every person shall maintain and keep records supporting the claim statement
104 filed with the department of revenue for a period of three years to substantiate all claims for
105 exemption and refund of the motor fuel tax, together with invoices, original sales receipts
106 marked paid by the seller, bills of lading, and other pertinent records and paper as may be
107 required by the director for reasonable administration of this chapter.

108 ~~[4-]~~ **7.** The director may make any investigation necessary before issuing an
109 exemption and refund under this section, and may investigate an exemption and refund under
110 this section after it has been issued and within the time frame for making adjustments to the
111 tax pursuant to this chapter.

112 ~~[5-]~~ **8.** If an exemption and refund is not issued within forty-five days of an accurate
113 and complete filing, as required by this chapter, the director shall pay interest at the rate
114 provided in section 32.065 accruing after the expiration of the forty-five-day period until the
115 date the exemption and refund is issued.

116 ~~[6-]~~ **9.** The exemption and refund specified in this section shall be available only with
117 regard to motor fuel delivered into a motor vehicle with a gross weight, as defined in section
118 301.010, of twenty-six thousand pounds or less.

119 ~~[7-]~~ **10.** The director shall promulgate rules as necessary to implement the provisions
120 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is
121 created under the authority delegated in this section shall become effective only if it complies
122 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
123 This section and chapter 536 are nonseverable and if any of the powers vested with the
124 general assembly pursuant to chapter 536 to review, to delay the effective date, or to
125 disapprove and annul a rule are subsequently held unconstitutional, then the grant of

126 rulemaking authority and any rule proposed or adopted after August 28, 2021, shall be invalid
127 and void.

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