

SECOND REGULAR SESSION

# HOUSE BILL NO. 1632

## 103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HALEY.

5593H.01I

JOSEPH ENGLER, Chief Clerk

### AN ACT

To repeal section 135.775, RSMo, and to enact in lieu thereof one new section relating to biodiesel blend fuel tax credits.

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

Section A. Section 135.775, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 135.775, to read as follows:

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~~ **or** 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:

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. For any retail dealer or distributor with a tax  
30 year beginning prior to January 1, 2023, but ending during the 2023 calendar year, such retail  
31 dealer or distributor shall be allowed a tax credit for the amount of biodiesel blend sold during  
32 the portion of such tax year that occurs during the 2023 calendar year. The amount of the  
33 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 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         7. The department shall promulgate rules to implement and administer the provisions  
58 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is  
59 created pursuant to the authority delegated in this section shall become effective only if it  
60 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section  
61 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with  
62 the general assembly pursuant to chapter 536 to review, to delay the effective date, or to  
63 disapprove and annul a rule are subsequently held unconstitutional, then the grant of  
64 rulemaking authority and any rule proposed or adopted after January 2, 2023, shall be invalid  
65 and void.

66         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.

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