

FIRST REGULAR SESSION

# SENATE BILL NO. 120

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHMITT.

Pre-filed January 8, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

0722S.07I

## AN ACT

To amend chapter 135, RSMo, by adding thereto six new sections relating to an air export incentive, with an emergency clause.

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

Section A. Chapter 135, RSMo, is amended by adding thereto six new sections, to be known as sections 135.1550, 135.1555, 135.1560, 135.1565, 135.1570, and 135.1575, to read as follows:

**135.1550. 1. Sections 135.1550 to 135.1575, shall be known and may be cited as the "Missouri Export Incentive Act".**

**2. As used in sections 135.1550 to 135.1575, unless the context clearly requires otherwise, the following terms shall mean:**

**(1) "Air export tax credit", the tax credit against the taxes imposed under chapters 143, 147, and 148, except for sections 143.191 to 143.265, to be issued by the department to a claiming freight forwarder for the shipment of air cargo on a qualifying outbound flight;**

**(2) "Airport", an airport which is owned and operated by a city not within a county;**

**(3) "Chargeable kilo", the shipment of a kilo of freight, as measured by the greater of:**

**(a) Actual weight; or**

**(b) A dimensional weight, as determined by the conversion factors promulgated by the International Air Transport Association, on a qualifying outbound flight;**

**(4) "Claiming freight forwarder", the freight forwarder designated as the "agent" on the airway bill for the qualifying outbound flight for which such air export tax credit is sought;**

**(5) "Department", the Missouri department of economic**

21 development;

22 (6) "Direct international aircraft flight", a single aircraft  
23 transoceanic flight that operates to an international destination in  
24 accordance with the operators bilateral route authority;

25 (7) "Freight forwarder", a person that assumes responsibility in  
26 the ordinary course of its business for the transportation of cargo from  
27 the place of receipt to the place of destination, including the utilization  
28 of a qualifying outbound flight;

29 (8) "Qualifying outbound flight", a direct international aircraft  
30 flight from the airport to an international destination that carries  
31 either all cargo or a mix of passengers and cargo.

135.1555. 1. For all fiscal years beginning on or after July 1,  
2 2013, a claiming freight forwarder shall be entitled to an air export tax  
3 credit for the shipment of cargo on a qualifying outbound flight in an  
4 amount equal to forty cents per chargeable kilo.

5 2. The department shall index, and the secretary of state shall  
6 publish in the Missouri Register, the amount of the air export tax  
7 credits to adjust each year depending upon fluctuations in the cost of  
8 fuel for over-the-road transportation.

135.1560. 1. To receive benefits provided under section 135.1555,  
2 a claiming freight forwarder shall file an application with the  
3 department within one hundred twenty calendar days of the date of  
4 shipment. The documentation to be presented by the claiming freight  
5 forwarder in such an application shall consist of the master airway bill  
6 for the shipment on the qualifying outbound flight for which the  
7 claiming freight forwarder is seeking air export tax credits. The  
8 department shall establish procedures to allow claiming freight  
9 forwarders that file applications for air export tax credits to receive  
10 such tax credits within twenty business days of the filing of the  
11 application.

12 2. If the fiscal year cap on the issuance of air export tax credits  
13 provided under section 135.1565 is met in a given fiscal year, then the  
14 amount of such tax credits which have been authorized, but remain  
15 unissued, shall be carried forward and issued in the subsequent fiscal  
16 year.

17 3. No tax credits provided under this section shall be authorized  
18 after June 30, 2021. Any tax credits authorized on or before June 30,

19 2021, but not issued, may be issued until all such authorized tax credits  
20 have been issued.

135.1565. The total aggregate amount for air export tax credits  
2 authorized under section 135.1555 shall not exceed sixty million  
3 dollars. The amount of the air export tax credits issued under section  
4 135.1555 shall not exceed seven million five hundred thousand dollars  
5 for each fiscal year beginning on or after July 1, 2013, unless  
6 authorized by the department. Any amount issued exceeding seven  
7 million five hundred thousand dollars in a fiscal year shall be reduced  
8 first from the authorized amount for the fiscal year ending June 30,  
9 2021, and then the preceding fiscal years, until all such authorized  
10 credits have been issued.

135.1570. If the amount of any tax credit authorized under  
2 sections 135.1550 to 135.1575 exceeds the total tax liability for the year  
3 in which the applicant is entitled to receive a tax credit, the amount  
4 that exceeds the state tax liability may be carried forward for credit  
5 against the taxes imposed under chapters 143, 147, and 148, except  
6 sections 143.191 to 143.265, for the succeeding six years, or until the full  
7 credit is used, whichever occurs first. Tax credits authorized under the  
8 provisions of sections 135.1550 to 135.1575 may be transferred, sold, or  
9 otherwise assigned. Tax credits granted to a partnership, a limited  
10 liability company taxed as a partnership, or multiple owners of  
11 property shall be passed through to the partners, members, or owners  
12 respectively pro rata or pursuant to an executed agreement among the  
13 partners, members, or owners documenting an alternate distribution  
14 method.

135.1575. 1. The department may promulgate rules to implement  
2 the provisions of sections 135.1550 to 135.1575. Any rule or portion of  
3 a rule, as that term is defined in section 536.010 that is created under  
4 the authority delegated in this section shall become effective only if it  
5 complies with and is subject to all of the provisions of chapter 536, and,  
6 if applicable, section 536.028. This section and chapter 536 are  
7 nonseverable and if any of the powers vested with the general assembly  
8 pursuant to chapter 536, to review, to delay the effective date, or to  
9 disapprove and annul a rule are subsequently held unconstitutional,  
10 then the grant of rulemaking authority and any rule proposed or  
11 adopted after the effective date of this act, shall be invalid and void.

12           **2. The provisions of section 23.253 of the Missouri sunset act**  
13 **notwithstanding:**

14           **(1) The provisions of the new programs authorized under**  
15 **sections 135.1550 to 135.1575 shall automatically sunset eight years**  
16 **after the effective date of this act, unless reauthorized by an act of the**  
17 **general assembly;**

18           **(2) If such program is reauthorized, the program authorized**  
19 **under this section shall automatically sunset eight years after the**  
20 **effective date of the reauthorization of this section; and**

21           **(3) This section shall terminate on September first of the**  
22 **calendar year immediately following the calendar year in which the**  
23 **programs authorized under sections 135.1550 to 135.1575 sunset.**

          Section B. Because immediate action is necessary to encourage economic  
2 development in the state, section A of this act is deemed necessary for the  
3 immediate preservation of the public health, welfare, peace and safety, and is  
4 hereby declared to be an emergency act within the meaning of the constitution,  
5 and section A of this act shall be in full force and effect upon its passage and  
6 approval.

Bill

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