

FIRST REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 519

102ND GENERAL ASSEMBLY

1820S.03C

KRISTINA MARTIN, Secretary

## 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.

*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,  
2 are repealed and three new sections enacted in lieu thereof, to  
3 be known as sections 135.772, 135.775, and 135.778, to read as  
4 follows:

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

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

4 (2) "Distributor", a person, firm, or corporation

5 doing business in this state that:

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

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

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

10 (3) "Higher ethanol blend", a fuel capable of being

11 dispensed directly into motor vehicle fuel tanks for

12 consumption that is comprised of at least fifteen percent

13 but not more than eighty-five percent ethanol;

14 (4) "Retail dealer", a person, firm, or corporation

15 doing business in this state that owns or operates a retail

16 service station in this state;

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

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

21           2. For all tax years beginning on or after January 1,  
22 2023, a retail dealer that sells higher ethanol blend at  
23 such retail dealer's retail service station or a distributor  
24 that sells higher ethanol blend directly to the final user  
25 located in this state shall be allowed a tax credit to be  
26 taken against the retail dealer's or distributor's state  
27 income tax liability. The amount of the credit shall equal  
28 five cents per gallon of higher ethanol blend sold by the  
29 retail dealer and dispensed through metered pumps at the  
30 retail dealer's retail service station or by a distributor  
31 directly to the final user located in this state during the  
32 tax year for which the tax credit is claimed. **For any**  
33 **retail dealer or distributor with a tax year beginning prior**  
34 **to January 1, 2023, but ending during the 2023 calendar**  
35 **year, such retail dealer or distributor shall be allowed a**  
36 **tax credit for the amount of higher ethanol blend sold**  
37 **during the portion of such tax year that occurs during the**  
38 **2023 calendar year.** Tax credits authorized pursuant to this  
39 section shall not be transferred, sold, or assigned. If the  
40 amount of the tax credit exceeds the taxpayer's state tax  
41 liability, the difference shall not be refundable but may be  
42 carried forward to any of the five subsequent tax years.  
43 The total amount of tax credits issued pursuant to this  
44 section for any given fiscal year shall not exceed five  
45 million dollars.

46           3. In the event the total amount of tax credits  
47 claimed under this section exceeds the amount of available  
48 tax credits, the tax credits shall be apportioned among all

49 eligible retail dealers and distributors claiming a tax  
50 credit by April fifteenth, or as directed by section  
51 143.851, of the fiscal year in which the tax credit is  
52 claimed.

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

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

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

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

78 (2) If such program is reauthorized, the program  
79 authorized under this section shall automatically sunset

80 twelve years after the effective date of the reauthorization  
81 of this section; and

82 (3) This section shall terminate on September first of  
83 the calendar year immediately following the calendar year in  
84 which the program authorized under this section is sunset.

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

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

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

18 (3) "B99", a blend of ninety-nine percent biodiesel  
19 fuel that meets the most recent version of the ASTM  
20 International D6751 Standard Specification for Biodiesel  
21 Fuel Blend Stock with a minimum of one-tenth of one percent  
22 and maximum of one percent diesel fuel that meets the most  
23 recent version of the ASTM International D975 Standard  
24 Specification for Diesel Fuel;

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

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

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

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

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

32           (6) "Retail dealer", a person, firm, or corporation  
33 doing business in this state that owns or operates a retail  
34 service station in this state;

35           (7) "Retail service station", a location in this state  
36 from which biodiesel blend is sold to the general public and  
37 is dispensed directly into motor vehicle fuel tanks for  
38 consumption at retail.

39           2. For all tax years beginning on or after January 1,  
40 2023, a retail dealer that sells a biodiesel blend at a  
41 retail service station or a distributor that sells a  
42 biodiesel blend directly to the final user located in this  
43 state shall be allowed a tax credit to be taken against the  
44 retail dealer or distributor's state income tax liability.

45 **For any retail dealer or distributor with a tax year**  
46 **beginning prior to January 1, 2023, but ending during the**  
47 **2023 calendar year, such retail dealer or distributor shall**  
48 **be allowed a tax credit for the amount of biodiesel blend**  
49 **sold during the portion of such tax year that occurs during**  
50 **the 2023 calendar year.** The amount of the credit shall be  
51 equal to:

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

57           (2) Five cents per gallon of biodiesel blend in excess  
58 of ten percent but not more than twenty percent sold by the  
59 retail dealer at a retail service station or by a

60 distributor directly to the final user located in this state  
61 during the tax year for which the tax credit is claimed.

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

68 4. In the event the total amount of tax credits  
69 claimed under this section exceeds the amount of available  
70 tax credits, the tax credits shall be apportioned among all  
71 eligible retail dealers and distributors claiming a tax  
72 credit by April fifteenth, or as directed by section  
73 143.851, of the fiscal year in which the tax credit is  
74 claimed.

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

83 6. Notwithstanding any other provision of law to the  
84 contrary, if the maximum amount of tax credits authorized by  
85 this section are not claimed, the remaining amount of tax  
86 credits available to claim shall be applied to the tax  
87 credit in section 135.778 if the maximum amount of tax  
88 credits authorized by section 135.778 have been claimed.

89 7. Notwithstanding the provisions of section 32.057 to  
90 the contrary, the department may work with the division of  
91 weights and measures within the department of agriculture to

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

95 8. The department shall promulgate rules to implement  
96 and administer the provisions of this section. Any rule or  
97 portion of a rule, as that term is defined in section  
98 536.010, that is created pursuant to the authority delegated  
99 in this section shall become effective only if it complies  
100 with and is subject to all of the provisions of chapter 536  
101 and, if applicable, section 536.028. This section and  
102 chapter 536 are nonseverable and if any of the powers vested  
103 with the general assembly pursuant to chapter 536 to review,  
104 to delay the effective date, or to disapprove and annul a  
105 rule are subsequently held unconstitutional, then the grant  
106 of rulemaking authority and any rule proposed or adopted  
107 after January 2, 2023, shall be invalid and void.

108 9. Under section 23.253 of the Missouri sunset act:

109 (1) The provisions of the new program authorized under  
110 this section shall automatically sunset on December 31,  
111 2028, unless reauthorized by an act of the general assembly;

112 (2) If such program is reauthorized, the program  
113 authorized under this section shall automatically sunset  
114 twelve years after the effective date of the reauthorization  
115 of this section; and

116 (3) This section shall terminate on September first of  
117 the calendar year immediately following the calendar year in  
118 which the program authorized under this section is sunset.  
119 The termination of the program as described in this  
120 subsection shall not be construed to preclude any qualified  
121 taxpayer who claims any benefit under any program that is  
122 sunset under this subsection from claiming such benefit for  
123 all allowable activities related to such claim that were

124 completed before the program was sunset or to eliminate any  
125 responsibility of the department to verify the continued  
126 eligibility of qualified individuals receiving tax credits  
127 and to enforce other requirements of law that applied before  
128 the program was sunset.

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

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

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

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

22 (4) "Missouri biodiesel producer", a person, firm, or  
23 corporation doing business in this state that produces  
24 biodiesel fuel in this state, is registered with the United  
25 States Environmental Protection Agency according to the  
26 requirements of 40 CFR Part 79, and has begun construction



27 on such facility or has been selling biodiesel fuel produced  
28 at such facility on or before January 2, 2023.

29 2. For all tax years beginning on or after January 1,  
30 2023, a Missouri biodiesel producer shall be allowed a tax  
31 credit to be taken against the producer's state income tax  
32 liability. **For any Missouri biodiesel producer with a tax**  
33 **year beginning prior to January 1, 2023, but ending during**  
34 **the 2023 calendar year, such Missouri biodiesel producer**  
35 **shall be allowed a tax credit for the amount of biodiesel**  
36 **fuel produced during the portion of such tax year that**  
37 **occurs during the 2023 calendar year.** The amount of the tax  
38 credit shall be two cents per gallon of biodiesel fuel  
39 produced by the Missouri biodiesel producer during the tax  
40 year for which the tax credit is claimed.

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

49 4. **[In the event the total amount of tax credits**  
50 **claimed under this section exceeds the amount of available**  
51 **tax credits, the tax credits shall be apportioned among all**  
52 **eligible Missouri biodiesel producers claiming the credit by**  
53 **April fifteenth, or as directed by section 143.851, of the**  
54 **fiscal year in which the tax credit is claimed.**

55 **5.]** The tax credit authorized under this section shall  
56 be claimed by such taxpayer at the time such taxpayer files  
57 a return and shall be applied against the income tax  
58 liability imposed by chapter 143, excluding the withholding

59 tax imposed by sections 143.191 to 143.265, after reduction  
60 for all other credits allowed thereon. The department may  
61 require any documentation it deems necessary to administer  
62 the provisions of this section.

63 [6.] 5. Notwithstanding any other provision of law to  
64 the contrary, if the maximum amount of tax credits  
65 authorized by this section are not claimed, the remaining  
66 amount of tax credits available to claim shall be applied to  
67 the tax credit in section 135.775 if the maximum amount of  
68 tax credits authorized by section 135.775 have been claimed.

69 [7.] 6. The department shall promulgate rules to  
70 implement and administer the provisions of this section.  
71 Any rule or portion of a rule, as that term is defined in  
72 section 536.010, that is created pursuant to the authority  
73 delegated in this section shall become effective only if it  
74 complies with and is subject to all of the provisions of  
75 chapter 536 and, if applicable, section 536.028. This  
76 section and chapter 536 are nonseverable and if any of the  
77 powers vested with the general assembly pursuant to chapter  
78 536 to review, to delay the effective date, or to disapprove  
79 and annul a rule are subsequently held unconstitutional,  
80 then the grant of rulemaking authority and any rule proposed  
81 or adopted after January 2, 2023, shall be invalid and void.

82 [8.] 7. Under section 23.253 of the Missouri sunset  
83 act:

84 (1) The provisions of the new program authorized under  
85 this section shall automatically sunset on December 31,  
86 2028, unless reauthorized by an act of the general assembly;

87 (2) If such program is reauthorized, the program  
88 authorized under this section shall automatically sunset  
89 twelve years after the effective date of the reauthorization  
90 of this section; and

91           (3) This section shall terminate on September first of  
92 the calendar year immediately following the calendar year in  
93 which the program authorized under this section is sunset.  
94 The termination of the program as described in this  
95 subsection shall not be construed to preclude any qualified  
96 taxpayer who claims any benefit under any program that is  
97 sunset under this subsection from claiming such benefit for  
98 all allowable activities related to such claim that were  
99 completed before the program was sunset, or to eliminate any  
100 responsibility of the department to verify the continued  
101 eligibility of qualified individuals receiving tax credits  
102 and to enforce other requirements of law that applied before  
103 the program was sunset.

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