

# SENATE BILL NO. 519

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOSKINS.

1820S.02I

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 135.775 and 135.778, RSMo, and to enact in lieu thereof two new sections relating to a tax credit for the production of biodiesel fuel.

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

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2 repealed and two new sections enacted in lieu thereof, to be  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

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;

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

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 The amount of the credit shall be equal to:

46           (1) Two cents per gallon of biodiesel blend of at  
47 least five percent but not more than ten percent sold by the  
48 retail dealer at a retail service station or by a

49 distributor directly to the final user located in this state  
50 during the tax year for which the tax credit is claimed; and

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

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

62 4. In the event the total amount of tax credits  
63 claimed under this section exceeds the amount of available  
64 tax credits, the tax credits shall be apportioned among all  
65 eligible retail dealers and distributors claiming a tax  
66 credit by April fifteenth, or as directed by section  
67 143.851, of the fiscal year in which the tax credit is  
68 claimed.

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

77 6. [Notwithstanding any other provision of law to the  
78 contrary, if the maximum amount of tax credits authorized by  
79 this section are not claimed, the remaining amount of tax  
80 credits available to claim shall be applied to the tax

81 credit in section 135.778 if the maximum amount of tax  
82 credits authorized by section 135.778 have been claimed.

83 [7.] Notwithstanding the provisions of section 32.057  
84 to the contrary, the department may work with the division  
85 of weights and measures within the department of agriculture  
86 to validate that the biodiesel blend a retail dealer or  
87 distributor claims for the tax credit authorized under this  
88 section contains a sufficient percentage of biodiesel fuel.

89 [8.] 7. The department shall promulgate rules to  
90 implement and administer the provisions of this section.  
91 Any rule or portion of a rule, as that term is defined in  
92 section 536.010, that is created pursuant to the authority  
93 delegated in this section shall become effective only if it  
94 complies with and is subject to all of the provisions of  
95 chapter 536 and, if applicable, section 536.028. This  
96 section and chapter 536 are nonseverable and if any of the  
97 powers vested with the general assembly pursuant to chapter  
98 536 to review, to delay the effective date, or to disapprove  
99 and annul a rule are subsequently held unconstitutional,  
100 then the grant of rulemaking authority and any rule proposed  
101 or adopted after January 2, 2023, shall be invalid and void.

102 [9.] 8. Under section 23.253 of the Missouri sunset  
103 act:

104 (1) The provisions of the new program authorized under  
105 this section shall automatically sunset on December 31,  
106 2028, unless reauthorized by an act of the general assembly;

107 (2) If such program is reauthorized, the program  
108 authorized under this section shall automatically sunset  
109 twelve years after the effective date of the reauthorization  
110 of this section; and

111 (3) This section shall terminate on September first of  
112 the calendar year immediately following the calendar year in

113 which the program authorized under this section is sunset.  
114 The termination of the program as described in this  
115 subsection shall not be construed to preclude any qualified  
116 taxpayer who claims any benefit under any program that is  
117 sunset under this subsection from claiming such benefit for  
118 all allowable activities related to such claim that were  
119 completed before the program was sunset or to eliminate any  
120 responsibility of the department to verify the continued  
121 eligibility of qualified individuals receiving tax credits  
122 and to enforce other requirements of law that applied before  
123 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. The amount of the tax credit shall be two cents  
33 per gallon of biodiesel fuel produced by the Missouri  
34 biodiesel producer during the tax year for which the tax  
35 credit is claimed.

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

42 4. [In the event the total amount of tax credits  
43 claimed under this section exceeds the amount of available  
44 tax credits, the tax credits shall be apportioned among all  
45 eligible Missouri biodiesel producers claiming the credit by  
46 April fifteenth, or as directed by section 143.851, of the  
47 fiscal year in which the tax credit is claimed.]

48 5.] The tax credit authorized under this section shall  
49 be claimed by such taxpayer at the time such taxpayer files  
50 a return and shall be applied against the income tax  
51 liability imposed by chapter 143, excluding the withholding  
52 tax imposed by sections 143.191 to 143.265, after reduction  
53 for all other credits allowed thereon. The department may

54 require any documentation it deems necessary to administer  
55 the provisions of this section.

56 [6. Notwithstanding any other provision of law to the  
57 contrary, if the maximum amount of tax credits authorized by  
58 this section are not claimed, the remaining amount of tax  
59 credits available to claim shall be applied to the tax  
60 credit in section 135.775 if the maximum amount of tax  
61 credits authorized by section 135.775 have been claimed.

62 [7.] 5. The department shall promulgate rules to  
63 implement and administer the provisions of this section.  
64 Any rule or portion of a rule, as that term is defined in  
65 section 536.010, that is created pursuant to the authority  
66 delegated in this section shall become effective only if it  
67 complies with and is subject to all of the provisions of  
68 chapter 536 and, if applicable, section 536.028. This  
69 section and chapter 536 are nonseverable and if any of the  
70 powers vested with the general assembly pursuant to chapter  
71 536 to review, to delay the effective date, or to disapprove  
72 and annul a rule are subsequently held unconstitutional,  
73 then the grant of rulemaking authority and any rule proposed  
74 or adopted after January 2, 2023, shall be invalid and void.

75 [8.] 6. Under section 23.253 of the Missouri sunset  
76 act:

77 (1) The provisions of the new program authorized under  
78 this section shall automatically sunset on December 31,  
79 2028, unless reauthorized by an act of the general assembly;

80 (2) If such program is reauthorized, the program  
81 authorized under this section shall automatically sunset  
82 twelve years after the effective date of the reauthorization  
83 of this section; and

84 (3) This section shall terminate on September first of  
85 the calendar year immediately following the calendar year in

86 which the program authorized under this section is sunset.  
87 The termination of the program as described in this  
88 subsection shall not be construed to preclude any qualified  
89 taxpayer who claims any benefit under any program that is  
90 sunset under this subsection from claiming such benefit for  
91 all allowable activities related to such claim that were  
92 completed before the program was sunset, or to eliminate any  
93 responsibility of the department to verify the continued  
94 eligibility of qualified individuals receiving tax credits  
95 and to enforce other requirements of law that applied before  
96 the program was sunset.

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