

FIRST REGULAR SESSION

# HOUSE BILL NO. 703

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES SHOEMYER (Sponsor), BARNITZ, BRINGER, HENKE,  
WITTE AND RUCKER (Co-sponsors).

Read 1<sup>st</sup> time March 3, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1513L.011

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### AN ACT

To amend chapter 135, RSMo, by adding thereto one new section relating solely to the creation of a tax credit for service station owners who sell ethanol.

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

Section A. Chapter 135, RSMo, is amended by adding thereto one new section, to be  
2 known as section 135.491, to read as follows:

3 **135.491. 1. Beginning on or after January 1, 2006, an eligible taxpayer shall be**  
4 **allowed a credit against the taxes otherwise imposed under chapter 143, RSMo, not**  
5 **including sections 143.191 to 143.265, RSMo.**

6 **2. To be eligible, the taxpayer shall be a retail owner and operate at least one**  
7 **service station at which more than sixty percent of the total gallons of gasoline sold and**  
8 **dispensed through one or more metered pumps by the taxpayer in the tax year is ethanol**  
9 **blended gasoline.**

10 **3. The taxpayer shall be allowed a credit against the tax otherwise due, in an**  
11 **amount equal to two and one-half cents multiplied by the total number of gallons of**  
12 **ethanol blended gasoline sold and dispensed through all metered pumps located at that**  
13 **service station during the tax year in excess of sixty percent of all gasoline sold and**  
14 **dispensed through metered pumps at that service station during the tax year.**

15 **4. An individual may claim the tax credit allowed a partnership, limited liability**  
**company, S corporation, estate, or trust electing to have the income taxed directly to the**  
**individual. The amount claimed by the individual shall be based upon the pro rata share**

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.

16 of the individual's earnings of a partnership, limited liability company, S corporation,  
17 estate, or trust.

18       **5. The tax credit allowed by this section shall be claimed by such individual at the**  
19 **time such individual files a return and shall be applied against the income tax liability**  
20 **imposed by chapter 143, RSMo. Where the amount of the credit exceeds the tax liability,**  
21 **the difference shall be refunded to the taxpayer or carried forward into each subsequent**  
22 **taxable year until such credit is fully used.**

23       **6. The director of the department of revenue shall promulgate rules and regulations**  
24 **to administer the provisions of this section. Any rule or portion of a rule, as that term is**  
25 **defined in section 536.010, RSMo, that is created under the authority delegated in this**  
26 **section shall become effective only if it complies with and is subject to all of the provisions**  
27 **of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter**  
28 **536, RSMo, are nonseverable and if any of the powers vested with the general assembly**  
29 **pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and**  
30 **annul a rule are subsequently held unconstitutional, then the grant of rulemaking**  
31 **authority and any rule proposed or adopted after August 28, 2005, shall be invalid and**  
32 **void.**

33       **7. Notwithstanding the provision of subsection 4 of section 32.057, RSMo, the**  
34 **department of revenue or any duly authorized employee or agent shall determine whether**  
35 **any taxpayer filing a report or return with the department of revenue who has not applied**  
36 **for the credit allowed under this section may qualify for the credit, and shall notify any**  
37 **qualified claimant of the claimant's potential eligibility, where the department determines**  
38 **such potential eligibility exists.**

39       **8. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:**

40       **(1) The provisions of the new program authorized under this section shall**  
41 **automatically sunset six years after the effective date of this section unless reauthorized by**  
42 **an act of the general assembly; and**

43       **(2) If such program is reauthorized, the program authorized under this section**  
44 **shall automatically sunset twelve years after the effective date of the reauthorization of this**  
45 **section; and**

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