

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 347
94TH GENERAL ASSEMBLY

Reported from the Special Committee on Energy and Environment March 15, 2007 with recommendation that House Committee Substitute for House Bill No. 347 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

0766L.04C

AN ACT

To repeal section 142.803, RSMo, and to enact in lieu thereof three new sections relating to alternative fuels.

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

Section A. Section 142.803, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 135.710, 142.803, and 407.836, to read as follows:

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

(1) "Alternative fuels", any of the following:

(a) E-85. As used in this section, "E-85" means a blend of eighty-five percent ethanol and fifteen percent gasoline, as defined in the American Society for Testing and Materials International (ASTM) D5798-06 Standard Specification for Fuel Ethanol (Ed75-Ed85) for Automotive Spark-Ignition Engines or its successor standard specifications for a fuel blend, nominally seventy-five to eighty-five volume percentage denatured fuel ethanol and twenty-five to fifteen additional volume percentage hydrocarbons for use in ground vehicles with automotive spark-ignition engines;

(b) Bio-diesel. As used in this section, "bio-diesel" means a blend of at least two percent methyl-ester, as defined in the American Society for Testing and Materials International (ASTM) D6751-06a Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels or its successor standard specifications for biodiesel (B100) Grades S15 and S500 for use as a blend component with diesel fuel oils as defined

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.

15 in the American Society for Testing and Materials International (ASTM) D975-06b
16 Standard Specification for Diesel Fuel Oils or its successor standard specifications for
17 Grades 1-D, 2-D, and low sulfur 1-D and 2-D;

18 (c) Any motor fuel at least seventy percent of the volume of which consists of one
19 or more of the following:

20 a. Ethanol;

21 b. Natural gas;

22 c. Compressed natural gas;

23 d. Liquefied natural gas;

24 e. Liquefied petroleum gas;

25 f. Any mixture of biodiesel and diesel fuel, without regard to any use of kerosene;

26 (2) "Department", the department of agriculture;

27 (3) "Eligible applicant", a business entity that is the owner of a qualified
28 alternative fuel vehicle refueling property;

29 (4) "Qualified alternative fuel vehicle refueling property", property in this state
30 owned by a firm or corporation and used for storing alternative fuels and for dispensing
31 such alternative fuels into fuel tanks of motor vehicles owned by such firm or corporation
32 or private citizens.

33 2. For all tax years beginning on or after January 1, 2008, but before January 1,
34 2011, any eligible applicant who installs and operates a qualified alternative fuel vehicle
35 refueling property shall be allowed a credit against the tax otherwise due under chapter
36 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or
37 due under chapter 147, RSMo, or chapter 148, RSMo, for any tax year in which the
38 applicant is constructing the refueling property. The credit allowed in this section per
39 eligible applicant shall not exceed the lesser of twenty thousand dollars or twenty percent
40 of the total costs directly associated with the purchase and installation of any alternative
41 fuel storage and dispensing equipment on any qualified alternative fuel vehicle refueling
42 property, which shall not include the following:

43 (1) Costs associated with the purchase of land upon which to place a qualified
44 alternative fuel vehicle refueling property;

45 (2) Costs associated with the purchase of an existing qualified alternative fuel
46 vehicle refueling property; or

47 (3) Costs for the construction or purchase of any structure.

48 3. The tax credits allowed by this section shall be claimed by the eligible applicant
49 at the time such applicant files a return for the tax year in which the storage and
50 dispensing facilities were placed in service at a qualified alternative fuel vehicle refueling

51 property, and shall be applied against the income tax liability imposed by chapter 143,
52 RSMo, chapter 147, RSMo, or chapter 148, RSMo, after all other credits provided by law
53 have been applied. The cumulative amount of tax credits which may be claimed by eligible
54 applicants claiming all credits authorized in this section shall not exceed the following
55 amounts:

56 (1) In taxable year 2008, three million dollars;

57 (2) In taxable year 2009, two million dollars; and

58 (3) In taxable year 2010, one million dollars.

59 4. If the amount of the tax credit exceeds the eligible applicant's tax liability, the
60 difference shall not be refundable. Any amount of credit that an eligible applicant is
61 prohibited by this section from claiming in a taxable year may be carried forward to any
62 of such applicant's two subsequent taxable years. Tax credits allowed under this section
63 may be assigned, transferred, sold, or otherwise conveyed.

64 5. The director of revenue shall establish the procedure by which the tax credits in
65 this section may be claimed, and shall establish a procedure by which the cumulative
66 amount of tax credits is apportioned equally among all eligible applicants claiming the
67 credit. To the maximum extent possible, the director of revenue shall establish the
68 procedure described in this subsection in such a manner as to ensure that eligible
69 applicants can claim all the tax credits possible up to the cumulative amount of tax credits
70 available for the taxable year. No eligible applicant claiming a tax credit under this section
71 shall be liable for any interest or penalty for filing a tax return after the date fixed for
72 filing such return as a result of the apportionment procedure under this subsection.

73 6. Any eligible applicant desiring to claim a tax credit under this section shall
74 submit the appropriate application for such credit with the department. The application
75 for a tax credit under this section shall include any information required by the
76 department. The department shall review the applications and certify to the department
77 of revenue each eligible applicant that qualifies for the tax credit.

78 7. The department and the department of revenue may promulgate rules to
79 implement the provisions of this section. Any rule or portion of a rule, as that term is
80 defined in section 536.010, RSMo, that is created under the authority delegated in this
81 section shall become effective only if it complies with and is subject to all of the provisions
82 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter
83 536, RSMo, are nonseverable and if any of the powers vested with the general assembly
84 pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and
85 annul a rule are subsequently held unconstitutional, then the grant of rulemaking

86 **authority and any rule proposed or adopted after August 28, 2007, shall be invalid and**
87 **void.**

142.803. 1. A tax is levied and imposed on all motor fuel used or consumed in this state
2 as follows:

3 (1) Motor fuel, seventeen cents per gallon;

4 (2) Alternative fuels, not subject to the decal fees as provided in section 142.869, with
5 a power potential equivalent of motor fuel. In the event alternative fuel, which is not commonly
6 sold or measured by the gallon, is used in motor vehicles on the highways of this state, the
7 director is authorized to assess and collect a tax upon such alternative fuel measured by the
8 nearest power potential equivalent to that of one gallon of regular grade gasoline. The
9 determination by the director of the power potential equivalent of such alternative fuel shall be
10 prima facie correct;

11 (3) Aviation fuel used in propelling aircraft with reciprocating engines, nine cents per
12 gallon as levied and imposed by section 155.080, RSMo, to be collected as required under this
13 chapter;

14 **(4) E85, a blend of eighty-five percent ethanol and fifteen percent gasoline, thirteen**
15 **cents per gallon.**

16 2. All taxes, surcharges and fees are imposed upon the ultimate consumer, but are to be
17 precollected as described in this chapter, for the facility and convenience of the consumer. The
18 levy and assessment on other persons as specified in this chapter shall be as agents of this state
19 for the precollection of the tax.

407.836. 1. Notwithstanding the terms of any franchise agreement, a motor fuel
2 **station franchisee shall not be prohibited from selling or dispensing from a motor fuel**
3 **pump located under the franchisee's gas station or convenience store canopy an alternative**
4 **motor fuel. Alternative fuel, as used in this section, shall include a blend of eighty-five**
5 **percent ethanol and fifteen percent gasoline or a blend of at least two percent methyl-ester,**
6 **commonly referred to as biodiesel and diesel motor fuel;**

7 **2. Any franchise agreement containing terms in violation of subsection 1 of this**
8 **section shall be null and void with regard to those particular terms;**

9 **3. Any filling station franchisee may bring an action in any court of competent**
10 **jurisdiction against a filling station franchisor with whom the franchisee has a franchise**
11 **for violating subsection 1 of this section to recover damages sustained by reason thereof**
12 **and, where appropriate, such filling station franchisee shall be entitled to injunctive relief.**
13 **The remedies set forth in this section shall not be deemed exclusive and shall be in addition**
14 **to any other remedies permitted by law.**

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