FIRST REGULAR SESSION

HOUSE BILL NO. 1005

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BERRY.

2251H.01I D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 135.710, RSMo, and to enact in lieu thereof two new sections relating to alternative motor fuel.

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

Section A. Section 135.710, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 135.710 and 135.711, to read as follows:

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

(1) "Alternative fuel vehicle refueling property", property in this state owned by an eligible applicant and used for storing alternative fuels and for dispensing such alternative fuels into fuel tanks of motor vehicles owned by such eligible applicant or private citizens;

(2) "Alternative fuels", any motor fuel at least seventy percent of the volume of which consists of one or more of the following:

(a) Ethanol;

(b) Natural gas;

(c) Compressed natural gas, or CNG;

(d) Liquified natural gas, or LNG;

(e) Liquified petroleum gas, or LP gas, propane, or autogas;

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

(g) Hydrogen;

(3) "Department", the department of economic development;

(4) "Electric vehicle recharging property", property in this state owned by an eligible applicant and used for recharging electric motor vehicles owned by such eligible applicant or private citizens;

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.

(5) "Eligible applicant", a business entity or private citizen that is the owner of an electric vehicle recharging property or an alternative fuel vehicle refueling property;

(6) "Qualified Missouri contractor", a contractor whose principal place of business is located in Missouri and has been located in Missouri for a period of not less than five years;

(7) "Qualified property", an electric vehicle recharging property or an alternative fuel vehicle refueling property which, if constructed after August 28, 2014, was constructed with at least fifty-one percent of the costs being paid to qualified Missouri contractors for the:

(a) Fabrication of premanufactured equipment or process piping used in the construction of such facility;

(b) Construction of such facility; and

(c) General maintenance of such facility during the time period in which such facility receives any tax credit under this section.

If no qualified Missouri contractor is located within seventy-five miles of the property, the requirement that fifty-one percent of the costs shall be paid to qualified Missouri contractors shall not apply.

2. For all tax years beginning on or after January 1, 2015, but before January 1, 2018, any eligible applicant who installs and operates a qualified property shall be allowed a credit against the tax otherwise due under chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265, or due under chapter 147 or chapter 148 for any tax year in which the applicant is constructing the qualified property. The credit allowed in this section per eligible applicant who is a private citizen shall not exceed fifteen hundred dollars or per eligible applicant that is a business entity shall not exceed the lesser of twenty thousand dollars or twenty percent of the total costs directly associated with the purchase and installation of any alternative fuel storage and dispensing equipment or any recharging equipment on any qualified property, which shall not include the following:

(1) Costs associated with the purchase of land upon which to place a qualified property;

(2) Costs associated with the purchase of an existing qualified property; or

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

3. Tax credits allowed by this section shall be claimed by the eligible applicant at the time such applicant files a return for the tax year in which the storage and dispensing or recharging facilities were placed in service at a qualified property, and shall be applied against the income tax liability imposed by chapter 143, chapter 147, or chapter 148 after all other credits provided by law have been applied. The cumulative amount of tax credits which may be claimed by eligible applicants claiming all credits authorized in this section **and section 135.711** shall not exceed one million dollars in any calendar year, subject to appropriations.

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

5. Any qualified property, for which an eligible applicant receives tax credits under this section, which ceases to sell alternative fuel or recharge electric vehicles shall cause the forfeiture of such eligible applicant's tax credits provided under this section for the taxable year in which the qualified property ceased to sell alternative fuel or recharge electric vehicles and for future taxable years with no recapture of tax credits obtained by an eligible applicant with respect to such applicant's tax years which ended before the sale of alternative fuel or recharging of electric vehicles ceased.

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

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

8. The department and the department of revenue may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

9. The provisions of section 23.253 of the Missouri sunset act notwithstanding:

(1) The provisions of the new program authorized under this section shall automatically sunset three years after December 31, 2014, unless reauthorized by an act of the general assembly; and

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

(3) This section shall terminate on December thirty-first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset; and

(4) The provisions of this subsection shall not be construed to limit or in any way impair the department's ability to redeem tax credits authorized on or before the date the program authorized under this section expires or a taxpayer's ability to redeem such tax credits.

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

(1) "Placed in service", a qualified alternative fuel vehicle that is ready and available for a specific use, whether in a business activity, an income-producing activity, a tax-exempt activity, or a personal activity. Even if the vehicle is not being used, the vehicle is placed in service if it is ready and available for its specific use;

(2) "Qualified alternative fuel", electricity, liquefied petroleum gas, natural gas and liquid fuels produced from natural gas, or compressed natural gas;

(3) "Qualified alternative fuel vehicle", a motor vehicle designed and approved for highway use that operates on a qualified alternative fuel, is placed in service on or after July 1, 2015, but before January 1, 2018, and that is described by the following applicable descriptions:

(a) Compressed natural gas vehicles and liquefied petroleum gas vehicles may have either dedicated or bi-fuel systems;

(b) Vehicles that operate on electricity shall have a maximum speed of at least fifty-five miles per hour, a battery capacity of no less than four kilowatt hours, and shall be capable of being recharged from an external source of electricity;

(c) Alternative fuel systems installed on motor vehicles shall be new equipment and:

a. Shall not have been previously used to modify or retrofit a vehicle;

b. Shall meet applicable federal and state safety standards;

c. Shall be certified by the Environmental Protection Agency for the motor vehicle or engine upon which it is installed; and

d. Shall be installed by a trained and authorized technician that is certified to install such a system or shall have been installed before the new vehicle is offered for sale for the first time at retail;

(d) Such qualified alternative fuel vehicle shall meet or exceed the clean fuel vehicle standards in Title II of the federal Clean Air Act Amendments of 1990 (Pub. L. No. 101-549, 104 Stat. 2472-2531) and shall be:

a. A motor vehicle with two separate fuel systems designed to run on a qualified alternative fuel, conventional fuel, or a blend of both; or

b. A motor vehicle with an engine designed to operate on a single qualified alternative fuel only;

(4) "Tax credit", a credit against the tax otherwise due under chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265, or otherwise due under chapter 147, 148, or 153;

(5) "Taxpayer", any natural person, association, partnership, limited liability company, limited partnership, or corporation subject to the tax imposed in chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265, or the tax imposed in chapter 147, 148, or 153, and who owns and operates a qualified alternative fuel vehicle licensed in this state.

2. (1) For all taxable years beginning on or after January 1, 2015, a taxpayer shall be allowed a tax credit for purchasing a new qualified alternative fuel vehicle or converting a previously-purchased motor vehicle to a qualified alternative fuel vehicle in the following amounts:

(a) Five thousand dollars for each vehicle with a gross vehicle weight of greater than two thousand pounds but less than ten thousand pounds;

(b) Seven thousand dollars for a heavy-duty vehicle with a gross vehicle weight of at least ten thousand pounds but less than twenty-six thousand pounds; and

(c) Twenty thousand dollars for vehicles with a gross vehicle weight of at least twenty-six thousand pounds.

(2) No more than one credit shall be issued per qualified alternative fuel vehicle.

3. The tax credits authorized in this section shall be claimed for the tax year in which the qualified alternative fuel vehicle was placed in service. If the amount of the tax credit issued exceeds the amount of the taxpayer's state tax liability for the tax year for which the credit is claimed, the difference shall not be refundable but may be carried forward to any of the taxpayer's ten subsequent taxable years. No tax credit issued under this section shall be transferred, sold, or assigned.

4. No more than one hundred thousand dollars in tax credits authorized in this section shall be issued to a particular taxpayer through the last day of March of each fiscal year, but all unused, appropriated tax credits may be issued to any taxpayer for any qualified alternative fuel vehicle and shall not be subject to the one hundred thousand

dollar limit beginning on April first of the fiscal year until the end of such fiscal year. The aggregate amount of tax credits which may be issued under this section in any one fiscal year shall not exceed the one million dollar calendar-year limit on such tax credits in subsection 3 of section 135.710.

5. Notwithstanding the provisions of section 304.180 to the contrary, any qualified alternative fuel vehicle or combination of vehicles that uses qualified alternative fuel as a motor fuel may exceed the maximum gross vehicle limit and axle weight limit on such vehicles listed in section 304.180 by two thousand pounds.

6. The department of revenue may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2015, shall be invalid and void.

7. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset on December thirty-first six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset on December thirty-first twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset. The termination of the program as described in this subsection shall not be construed to preclude any taxpayer who claims any benefit under any program that is sunset under this subsection from claiming such benefit for all allowable activities related to such claim that were completed before the program was sunset, or to eliminate any responsibility of the administering agency to verify the continued eligibility of projects receiving tax credits and to enforce other requirements of law that applied before the program was sunset.

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