

FIRST REGULAR SESSION

# HOUSE BILL NO. 664

## 98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MCGAUGH.

1594L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

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

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*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Section A. Section 135.710, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 135.710 and 135.711, to read as follows: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) Liquefied natural gas, or LNG;

(e) Liquefied 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.

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

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

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

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

27 (b) Construction of such facility; and

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

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

34 2. For all tax years beginning on or after January 1, 2015, but before January 1, 2018,  
35 any eligible applicant who installs and operates a qualified property shall be allowed a credit  
36 against the tax otherwise due under chapter 143, excluding withholding tax imposed by sections  
37 143.191 to 143.265, or due under chapter 147 or chapter 148 for any tax year in which the  
38 applicant is constructing the qualified property. The credit allowed in this section per eligible  
39 applicant who is a private citizen shall not exceed fifteen hundred dollars or per eligible applicant  
40 that is a business entity shall not exceed the lesser of twenty thousand dollars or twenty percent  
41 of the total costs directly associated with the purchase and installation of any alternative fuel  
42 storage and dispensing equipment or any recharging equipment on any qualified property, which  
43 shall not include the following:

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

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

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

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

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

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

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

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

80 8. The department and the department of revenue may promulgate rules to implement  
81 the provisions of this section. Any rule or portion of a rule, as that term is defined in section  
82 536.010, that is created under the authority delegated in this section shall become effective only  
83 if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section  
84 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the  
85 general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove  
86 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority  
87 and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

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

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

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

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

96 (4) The provisions of this subsection shall not be construed to limit or in any way impair  
97 the department's ability to redeem tax credits authorized on or before the date the program  
98 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:**

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

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

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

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

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

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

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

19 b. **Shall meet applicable federal and state safety standards;**

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

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

25 (d) Such qualified alternative fuel vehicle shall meet or exceed the clean fuel vehicle  
26 standards in Title II of the federal Clean Air Act Amendments of 1990 (Pub. L. No. 101-  
27 549, 104 Stat. 2472-2531) and shall be:

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

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

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

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

40 2. (1) For all taxable years beginning on or after January 1, 2015, a taxpayer shall  
41 be allowed a tax credit for purchasing a new qualified alternative fuel vehicle or converting  
42 a previously-purchased motor vehicle to a qualified alternative fuel vehicle in the following  
43 amounts:

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

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

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

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

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

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

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

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

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

78 **7. Under section 23.253 of the Missouri sunset act:**

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

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

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

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