

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
HOUSE BILL 1225

By: Leist and Glover of the  
House

and

Capps of the Senate

COMMITTEE SUBSTITUTE

[ revenue and taxation - Oklahoma Ethanol Development  
and Marketing Act - tax credits - effective date -

emergency ]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 2357.42 of Title 68, unless  
there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma  
Ethanol Development and Marketing Act".

SECTION 2. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 2357.43 of Title 68, unless  
there is created a duplication in numbering, reads as follows:

For purposes of the Oklahoma Ethanol Development and Marketing  
Act:

1. "Ethanol facility" means a plant or facility related to the  
processing, marketing, or distribution of any products derived from  
grain components, coproducts, or byproducts; and

2. "Name plate design capacity" means the original designed  
capacity of an ethanol facility. Capacity may be specified as  
bushels of grain ground or gallons of ethanol produced per year.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.44 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For tax years beginning after December 31, 2001, and ending not later than December 31, 2010, any ethanol facility which is in production at the rate of at least twenty-five percent (25%) of its name plate design capacity for the production of ethanol, before denaturing, on or before December 31, 2004, shall receive a credit against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes of twenty cents (\$0.20) per gallon of ethanol produced for sixty (60) months beginning with the first month for which it is eligible to receive such credit. The credit shall be allowed only if the ethanol facility maintains an average production rate of at least twenty-five percent (25%) of its name plate design capacity for at least six (6) months after the first month for which it is eligible to receive such credit.

B. For tax years beginning after December 31, 2001, and ending not later than December 31, 2010, any ethanol facility eligible for a tax credit under subsection A of this section shall also receive a credit against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes of twenty cents (\$0.20) per gallon of ethanol produced in excess of the original name plate design capacity which results from expansion of the facility completed on or before December 31, 2004. Such tax credit shall be for such production for a period not to exceed sixty (60) months beginning with the first month for which production from the expanded facility is eligible to receive such tax credit.

C. 1. For tax years beginning after December 31, 2010, an ethanol facility shall receive a credit against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes of seven and one-half cents (\$0.075) per gallon of ethanol, before denaturing, for

new production for a period not to exceed thirty-six (36) consecutive months.

2. For purposes of this subsection, "new production" means production which results from a new facility, a facility which has not received credits prior to June 1, 2010, or the expansion of an existing facility's capacity by at least two million (2,000,000) gallons first placed into service after June 1, 2010, as certified by the facility's design engineer to the Oklahoma Tax Commission. For expansion of an existing facility's capacity, "new production" means production in excess of the average of the highest three (3) months of ethanol production at an ethanol facility during the twenty-four-month period immediately preceding certification of the facility by the design engineer.

3. No credits shall be allowed under this subsection for expansion of an existing facility's capacity until production is in excess of twelve times the three-month average amount determined under this subsection during any twelve-consecutive-month period beginning no sooner than June 1, 2010.

4. Credits for production shall be approved by the Tax Commission based on such ethanol production records as may be necessary to reasonably determine new production.

D. 1. The credits described in this section shall be given only for ethanol produced at a plant in Oklahoma at which all fermentation, distillation, and dehydration takes place. No credit shall be given on ethanol produced for or sold for use in the production of distilled spirits.

2. Not more than twenty-five million (25,000,000) gallons of ethanol produced annually at an ethanol facility shall be eligible for the credits in subsections A and B of this section, and the credits may only be claimed by a producer for the periods specified in subsections A and B of this section.

3. Not more than ten million (10,000,000) gallons of ethanol produced during any twelve-consecutive-month period at an ethanol facility shall be eligible for the credit described in subsection C of this section, and the credit may only be claimed by a producer for the periods specified in subsection C of this section.

4. Not more than one hundred twenty-five million (125,000,000) gallons of ethanol produced at an ethanol facility by the end of the sixty-month period set forth in subsection A or B of this section shall be eligible for the credit under such subsection. An ethanol facility which receives a credit for ethanol produced under subsection A or B of this section shall not receive a credit under subsection C of this section until its eligibility to receive a credit under subsection A or B has been completed.

E. The Tax Commission shall prescribe an application form and procedures for claiming credits under this section.

F. For purposes of ascertaining the correctness of any application for claiming a credit provided in this section, the Tax Commission may examine or cause to have examined, by any agent or representative designated by him or her for that purpose, any books, papers, records, or memoranda bearing upon such matters.

SECTION 4. This act shall become effective July 1, 2001.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.