

SB 1084

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THE STATE SENATE
Wednesday, February 22, 2006

Senate Bill No. 1084
As Amended

SENATE BILL NO. 1084 - By: GUMM of the Senate and CALVEY of the House.

[revenue and taxation - clarifying references - income tax credit - biodiesel facility - effective date]

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

SECTION 1. AMENDATORY Section 1, Chapter 287, O.S.L. 2005 (68 O.S. Supp. 2005, Section 2357.67), is amended to read as follows:

Section 2357.67 For tax years beginning after December 31, 2004, and before January 1, 2012, there shall be allowed a credit against the tax imposed by Section 2355 of ~~Title 68 of the Oklahoma Statutes~~ this title for any biodiesel 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 biodiesel, on or before December 31, 2007. The completion of the construction of such facilities must be after ~~the date of this act~~ July 1, 2005. The credit shall be in the amount of twenty cents (\$0.20) per gallon of biodiesel produced and shall be allowed for sixty (60) months beginning with the first month for which the facility is eligible to receive such credit and ending not later than December 31, 2011.

1 The credit may only be claimed if the biodiesel facility maintains
2 an average production rate of at least twenty-five percent (25%) of
3 its name plate design capacity for at least six (6) months after the
4 first month for which it is eligible to receive such credit.

5 B. As used in this section:

6 1. "Biodiesel facility" means a plant or facility located
7 within the State of Oklahoma and primarily engaged in the production
8 of biodiesel derived from animal fats, grain components, coproducts,
9 or byproducts; and

10 2. "Name plate design capacity" means the original designed
11 capacity of a biodiesel facility. Capacity may be specified as
12 gallons of biodiesel produced per year.

13 C. Any biodiesel facility eligible for a tax credit under
14 subsection A of this section shall also receive a credit against the
15 tax imposed by Section 2355 of ~~Title 68 of the Oklahoma Statutes~~
16 this title in the amount of twenty cents (\$0.20) per gallon of
17 biodiesel produced in excess of the original name plate design
18 capacity which results from expansion of the facility completed on
19 or after ~~the effective date of this act~~ July 1, 2005 and before
20 December 31, 2007. Such tax credit shall be allowed for sixty (60)
21 months beginning with the first month for which production from the
22 expanded facility is eligible to receive such tax credit and ending
23 not later than December 31, 2011.

1 D. 1. Beginning January 1, 2012, a biodiesel facility shall
2 receive a credit against the tax imposed by Section 2355 of ~~Title 68~~
3 ~~of the Oklahoma Statutes~~ this title in the amount of seven and one-
4 half cents (\$0.075) per gallon of biodiesel, for new production for
5 a period not to exceed thirty-six (36) consecutive months.

6 2. For purposes of this subsection, "new production" means
7 production which results from a new facility, a facility which has
8 not received credits prior to January 1, 2012, or the expansion of
9 the capacity of an existing facility by at least two million
10 (2,000,000) gallons first placed into service after January 1, 2012,
11 as certified by the design engineer of the facility to the Oklahoma
12 Tax Commission.

13 3. For expansion of the capacity of an existing facility, "new
14 production" means annual production in excess of twelve times the
15 monthly average of the highest three (3) months of biodiesel
16 production at a biodiesel facility during the twenty-four-month
17 period immediately preceding certification of the facility by the
18 design engineer.

19 4. No credits shall be allowed under this subsection for
20 expansion of the capacity of an existing facility until production
21 is in excess of twelve times the three-month average amount
22 determined under this subsection during any twelve-consecutive-month
23 period beginning no sooner than January 1, 2012.

1 5. The amount of a credit granted pursuant to this section
2 based on new production shall be approved by the Tax Commission
3 based on such biodiesel production records as may be necessary to
4 reasonably determine the level of new production.

5 E. 1. The credits described in this section shall be given
6 only for biodiesel produced at a plant in this state at which all
7 biodiesel esterification takes place.

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

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

18 4. Not more than one hundred twenty-five million (125,000,000)
19 gallons of biodiesel produced at a biodiesel facility by the end of
20 the sixty-month period set forth in subsection A or C of this
21 section shall be eligible for the credit under such subsection. A
22 biodiesel facility which receives a credit for biodiesel produced
23 under subsection A or C of this section shall not receive a credit

1 under subsection D of this section until its eligibility to receive
2 a credit under subsection A or C of this section has been completed.

3 F. The Tax Commission shall prescribe an application form and
4 promulgate rules for claiming credits under this section.

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

10 SECTION 2. This act shall become effective November 1, 2006.

11 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-14-06 - DO PASS,
12 As Amended and Coauthored.