

As Introduced

**126th General Assembly
Regular Session
2005-2006**

H. B. No. 702

Representatives Reinhard, Schlichter

—

A BILL

To amend sections 125.834, 1327.50, 1327.61, 5733.01, 1
5733.98, and 5747.98 and to enact sections 2
5733.47, 5747.76, and 5747.77 of the Revised Code 3
to establish a biodiesel, blended biodiesel, and 4
E85 blend fuel quality testing program; to 5
establish renewable fuel usage requirements for 6
fueling facilities owned or operated by the state; 7
and to authorize tax credits against the 8
corporation franchise and income taxes for the 9
sale of E85 blend fuel, and against the income tax 10
for the sale of renewable fuels. 11

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 125.834, 1327.50, 1327.61, 5733.01, 12
5733.98, and 5747.98 be amended and sections 5733.47, 5747.76, and 13
5747.77 of the Revised Code be enacted to read as follows: 14

Sec. 125.834. (A) The department of administrative services 15
shall ensure that all new motor vehicles acquired on and after 16
July 1, 2006, by the state for use by state agencies under section 17
125.832 of the Revised Code are capable of using alternative 18
fuels. A state agency that is acquiring new motor vehicles under 19
division (G)(1) of section 125.832 of the Revised Code shall 20

report annually, in a manner prescribed by the director of 21
administrative services, the number of new motor vehicles acquired 22
by the state agency and the number of those motor vehicles that 23
are capable of using alternative fuel. 24

(B) The department shall not purchase or lease, or authorize 25
the purchase or lease by a state agency of, any motor vehicles 26
that are incapable of using alternative fuels, unless one or more 27
of the following apply: 28

~~(a)~~(1) The department or state agency is unable to acquire or 29
operate motor vehicles within the cost limitations described in 30
rules adopted under division (D) of this section. 31

~~(b)~~(2) The use of alternative fuels would not meet the energy 32
conservation and exhaust emissions criteria described in rules 33
adopted under division (D) of this section. 34

~~(c)~~(3) An emergency exists or exigent circumstances exist, as 35
determined by the department of administrative services. 36

(C) Not later than ninety days after ~~the effective date of~~ 37
~~this section~~ October 12, 2006, all motor vehicles owned or leased 38
by the state that are capable of using an alternative fuel shall 39
use an alternative fuel if the fuel is reasonably available at a 40
reasonable price. Subject to division (D) of this section, motor 41
vehicles owned or leased by the state shall use at least sixty 42
thousand gallons of E85 blend fuel per calendar year by January 1, 43
2007, with an increase of five thousand gallons per calendar year 44
each calendar year thereafter, and at least one million gallons of 45
biodiesel per calendar year by January 1, 2007, with an increase 46
of one hundred thousand gallons per calendar year each calendar 47
year thereafter. The director of administrative services, under 48
Chapter 119. of the Revised Code, shall adopt rules to implement 49
the fuel use requirement of this division, and the directors and 50
heads of all state departments and agencies shall issue a 51

directive to all state employees who use state motor vehicles 52
informing them of the fuel use requirement. The directive shall 53
instruct state employees to purchase alternative fuels at retail 54
fuel facilities whenever possible. 55

As used in this division, "motor vehicle" has the same 56
meaning as in section 125.831 of the Revised Code and also 57
includes all on-road and off-road vehicles powered by diesel fuel, 58
regardless of gross vehicle weight. 59

(D) The director of administrative services shall adopt and 60
may amend, under Chapter 119. of the Revised Code, rules that 61
include both of the following: 62

(1) Requirements for state agencies in the procurement of 63
alternative fuels and motor vehicles capable of using alternative 64
fuels, and cost limitations for the acquisition and operation of 65
such vehicles; 66

(2) Energy conservation and exhaust emissions criteria for 67
motor vehicles capable of using alternative fuels. 68

(E)(1) As used in division (E) of this section, "renewable 69
fuel" has the same meaning as in section 5747.76 of the Revised 70
Code. 71

(2) Beginning January 1, 2010, the director of administrative 72
services shall ensure that each fueling facility owned or operated 73
by the state dispenses renewable fuel, expressed as a percentage 74
of the total gallons of gasoline dispensed at the fueling 75
facility, in an amount that equals or exceeds the renewable fuel 76
threshold percentage prescribed in divisions (C)(1) to (16) of 77
section 5747.76 of the Revised Code, for the applicable 78
determination period designated in those divisions. 79

Sec. 1327.50. The director of agriculture shall: 80

(A) Maintain traceability of the state standards to those of 81

the national institute of standards and technology;	82
(B) Enforce sections 1327.46 to 1327.61 of the Revised Code;	83
(C) Issue reasonable rules for the uniform enforcement of sections 1327.46 to 1327.61 of the Revised Code, which rules shall have the force and effect of law;	84 85 86
(D) Establish standards of weight, measure, or count, reasonable standards of fill, and standards for the voluntary presentation of cost per unit information for any package;	87 88 89
(E) Grant any exemptions from sections 1327.46 to 1327.61 of the Revised Code, or any rules adopted under those sections, when appropriate to the maintenance of good commercial practices in the state;	90 91 92 93
(F) Conduct investigations to ensure compliance with sections 1327.46 to 1327.61 of the Revised Code;	94 95
(G) Delegate to appropriate personnel any of these responsibilities for the proper administration of the director's office;	96 97 98
(H) Test as often as is prescribed by rule the standards of weight and measure used by any municipal corporation or county within the state, and approve the same when found to be correct;	99 100 101
(I) Inspect and test weights and measures kept, offered, or exposed for sale;	102 103
(J) Inspect and test to ascertain if they are correct, weights and measures commercially used either:	104 105
(1) In determining the weight, measure, or count of commodities or things sold, or offered or exposed for sale, on the basis of weight, measure, or count;	106 107 108
(2) In computing the basic charge or payment for goods or services rendered on the basis of weight, measure, or count.	109 110

(K) Test all weights and measures used in checking the receipt or disbursement of supplies in every institution, for the maintenance of which funds are appropriated by the general assembly;

(L) Approve for use, and may mark, such weights and measures as the director finds to be correct, and shall reject and mark as rejected such weights and measures as the director finds to be incorrect. Weights and measures that have been rejected may be seized if not corrected within the time specified or if used or disposed of in a manner not specifically authorized, and may be condemned and seized if found to be incorrect and not capable of being made correct.

(M) Weigh, measure, or inspect packaged commodities kept, offered, or exposed for sale, sold, or in the process of delivery to determine whether they contain the amounts represented and whether they are kept, offered, or exposed for sale in accordance with sections 1327.46 to 1327.61 of the Revised Code or rules adopted under those sections. In carrying out this section, the director shall employ recognized sampling procedures, such as those designated in the national institute of standards and technology handbook 133 "checking the net contents of packaged goods."

(N) Prescribe by rule the appropriate term or unit of weight or measure to be used, whenever the director determines in the case of a specific commodity that an existing practice of declaring the quantity by weight, measure, numerical count, or combination thereof, does not facilitate value comparisons by consumers, or offers an opportunity for consumer confusion;

(O) Allow reasonable variations from the stated quantity of contents, which shall include those caused by unavoidable deviations in good manufacturing practice and by loss or gain of

moisture during the course of good distribution practice, only 142
after the commodity has entered intrastate commerce; 143

(P) Provide for the weights and measures training of 144
inspector personnel and establish minimum training requirements, 145
which shall be met by all inspector personnel, whether county, 146
municipal, or state; 147

(Q) Prescribe the methods of tests and inspections to be 148
employed in the enforcement of sections 1327.46 to 1327.61 of the 149
Revised Code. The director may prescribe the official test and 150
inspection forms to be used. 151

(R) Provide by rule for voluntary registration with the 152
director of private weighing and measuring device servicing 153
agencies, and personnel; 154

(S) In conjunction with the national institute of standards 155
and technology, operate a type evaluation program for 156
certification of weighing and measuring devices as part of the 157
national type evaluation program. The director shall establish a 158
schedule of fees for services rendered by the department of 159
agriculture for type evaluation services. The director may require 160
any weighing or measuring instrument or device to be traceable to 161
a national type evaluation program certificate of conformance 162
prior to use for commercial or law enforcement purposes. 163

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(T) Prescribe by rule an alternative fuel quality testing 165
program to ensure that biodiesel, blended biodiesel, and E85 blend 166
fuel sold in this state meet the applicable American society for 167
testing and materials specifications designated in section 125.831 168
of the Revised Code and any other standards that the director of 169
administrative services adopts by rule under that section. At a 170
minimum, the rules shall establish all of the following: 171

(1) Sampling, testing, and enforcement standards for 172

biodiesel, blended biodiesel, and E85 blend fuel, and require the 173
collection of samples of those fuels that are marketed in this 174
state; 175

(2) The appropriate American society for testing and 176
materials specifications to be used in the program; 177

(3) Requirements and procedures for the certification of each 178
fuel pump at which a retailer sells or offers for sale biodiesel, 179
blended biodiesel, or E85 blend fuel to ensure that the retailer 180
is in compliance with the program. The procedures shall include 181
the issuance of a sticker, as prescribed by the director, for each 182
fuel pump that complies with the program. 183

(4) Criteria for issuing a stop sale order for any biodiesel, 184
blended biodiesel, or E85 blend fuel found not to be in compliance 185
with the specifications established by rule pursuant to this 186
section. 187

Sec. 1327.61. No person shall do any of the following: 188

(A) Use or have in possession for use in commerce any 189
incorrect weight or measure; 190

(B) Wrap, package, label, or advertise any product or service 191
contrary to this chapter, or any rules adopted under it, or sell, 192
offer, hold, or expose for sale any service or product wrapped, 193
packaged, labeled, or offered for sale contrary to this chapter or 194
any rules adopted under it, or misrepresent the quantity or price 195
or service contrary to this chapter, or any rules adopted under 196
it; 197

(C) Remove any tag, seal, or mark from any weight or measure 198
without specific written authorization from the proper authority; 199

(D) Hinder or obstruct any weights and measures official in 200
the performance of ~~his~~ the official's duties; 201

(E) Sell or offer for use in commerce any incorrect weight or
measure; 202
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(F) Represent biodiesel, blended biodiesel, or E85 blend fuel 204
in any manner that may deceive or tend to deceive the purchaser as 205
to the nature or quality of the product. 206

Sec. 5733.01. (A) The tax provided by this chapter for 207
domestic corporations shall be the amount charged against each 208
corporation organized for profit under the laws of this state and 209
each nonprofit corporation organized pursuant to Chapter 1729. of 210
the Revised Code, except as provided in sections 5733.09 and 211
5733.10 of the Revised Code, for the privilege of exercising its 212
franchise during the calendar year in which that amount is 213
payable, and the tax provided by this chapter for foreign 214
corporations shall be the amount charged against each corporation 215
organized for profit and each nonprofit corporation organized or 216
operating in the same or similar manner as nonprofit corporations 217
organized under Chapter 1729. of the Revised Code, under the laws 218
of any state or country other than this state, except as provided 219
in sections 5733.09 and 5733.10 of the Revised Code, for the 220
privilege of doing business in this state, owning or using a part 221
or all of its capital or property in this state, holding a 222
certificate of compliance with the laws of this state authorizing 223
it to do business in this state, or otherwise having nexus in or 224
with this state under the Constitution of the United States, 225
during the calendar year in which that amount is payable. 226

(B) A corporation is subject to the tax imposed by section 227
5733.06 of the Revised Code for each calendar year that it is so 228
organized, doing business, owning or using a part or all of its 229
capital or property, holding a certificate of compliance, or 230
otherwise having nexus in or with this state under the 231
Constitution of the United States, on the first day of January of 232

that calendar year.	233
(C) Any corporation subject to this chapter that is not	234
subject to the federal income tax shall file its returns and	235
compute its tax liability as required by this chapter in the same	236
manner as if that corporation were subject to the federal income	237
tax.	238
(D) For purposes of this chapter, a federally chartered	239
financial institution shall be deemed to be organized under the	240
laws of the state within which its principal office is located.	241
(E) For purposes of this chapter, any person, as defined in	242
section 5701.01 of the Revised Code, shall be treated as a	243
corporation if the person is classified for federal income tax	244
purposes as an association taxable as a corporation, and an equity	245
interest in the person shall be treated as capital stock of the	246
person.	247
(F) For the purposes of this chapter, "disregarded entity"	248
has the same meaning as in division (D) of section 5745.01 of the	249
Revised Code.	250
(1) A person's interest in a disregarded entity, whether held	251
directly or indirectly, shall be treated as the person's ownership	252
of the assets and liabilities of the disregarded entity, and the	253
income, including gain or loss, shall be included in the person's	254
net income under this chapter.	255
(2) Any sale, exchange, or other disposition of the person's	256
interest in the disregarded entity, whether held directly or	257
indirectly, shall be treated as a sale, exchange, or other	258
disposition of the person's share of the disregarded entity's	259
underlying assets or liabilities, and the gain or loss from such	260
sale, exchange, or disposition shall be included in the person's	261
net income under this chapter.	262

(3) The disregarded entity's payroll, property, and sales factors shall be included in the person's factors. 263
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(G) The tax a corporation is required to pay under this chapter shall be as follows: 265
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(1)(a) For financial institutions, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or the difference between all taxes charged the financial institution under this chapter, without regard to division (G)(2) of this section, less any credits allowable against such tax. 267
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(b) A corporation satisfying the description in division (E)(5), (6), (7), (8), or (10) of section 5751.01 of the Revised Code that is not a financial institution, insurance company, or dealer in intangibles is subject to the taxes imposed under this chapter as a corporation and not subject to tax as a financial institution, and shall pay the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or the difference between all the taxes charged under this chapter, without regard to division (G)(2) of this section, less any credits allowable against such tax. 273
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(2) For all corporations other than those persons described in division (G)(1)(a) or (b) of this section, the amount under division (G)(2)(a) of this section applicable to the tax year specified less the amount under division (G)(2)(b) of this section: 283
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(a)(i) For tax year 2005, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or the difference between all taxes charged the corporation under this chapter and any credits allowable against such tax; 288
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(ii) For tax year 2006, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code 292
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or four-fifths of the difference between all taxes charged the
corporation under this chapter and any credits allowable against
such tax except the qualifying pass-through entity tax credit
described in division (A)(29) and the refundable credits described
in divisions (A)(30), ~~(31), (32), and (33)~~ to (34) of section
5733.98 of the Revised Code;

(iii) For tax year 2007, the greater of the minimum payment
required under division (E) of section 5733.06 of the Revised Code
or three-fifths of the difference between all taxes charged the
corporation under this chapter and any credits allowable against
such tax except the qualifying pass-through entity tax credit
described in division (A)(29) and the refundable credits described
in divisions (A)(30), ~~(31), (32), and (33)~~ to (34) of section
5733.98 of the Revised Code;

(iv) For tax year 2008, the greater of the minimum payment
required under division (E) of section 5733.06 of the Revised Code
or two-fifths of the difference between all taxes charged the
corporation under this chapter and any credits allowable against
such tax except the qualifying pass-through entity tax credit
described in division (A)(29) and the refundable credits described
in divisions (A)(30), ~~(31), (32), and (33)~~ to (34) of section
5733.98 of the Revised Code;

(v) For tax year 2009, the greater of the minimum payment
required under division (E) of section 5733.06 of the Revised Code
or one-fifth of the difference between all taxes charged the
corporation under this chapter and any credits allowable against
such tax except the qualifying pass-through entity tax credit
described in division (A)(29) and the refundable credits described
in divisions (A)(30), (31), ~~and (32)~~, and (34) of section 5733.98
of the Revised Code;

(vi) For tax year 2010 and each tax year thereafter, no tax.

(b) A corporation shall subtract from the amount calculated 325
under division (G)(2)(a)(ii), (iii), (iv), or (v) of this section 326
any qualifying pass-through entity tax credit described in 327
division (A)(29) and any refundable credits described in divisions 328
(A)(30), ~~(31), (32), and (33)~~ to (34) of section 5733.98 of the 329
Revised Code to which the corporation is entitled. Any unused 330
qualifying pass-through entity tax credit is not refundable. 331

(c) For the purposes of computing the amount of a credit that 332
may be carried forward to a subsequent tax year under division 333
(G)(2) of this section, a credit is utilized against the tax for a 334
tax year to the extent the credit applies against the tax for that 335
tax year, even if the difference is then multiplied by the 336
applicable fraction under division (G)(2)(a) of this section. 337

(3) Nothing in division (G) of this section eliminates or 338
reduces the tax imposed by section 5733.41 of the Revised Code on 339
a qualifying pass-through entity. 340

Sec. 5733.47. (A) As used in this section: 341

(1) "E85 blend fuel" has the same meaning as in section 342
125.831 of the Revised Code. 343

(2) "Retail dealer" means any person that is a taxpayer under 344
this chapter and that owns or operates a retail service station 345
located in this state. 346

(3) "Retail service station" means a location from which E85 347
blend fuel is sold to the general public and is dispensed or 348
pumped directly into motor vehicle fuel tanks for consumption. 349

(B) There is allowed a refundable credit against the tax 350
imposed by section 5733.06 of the Revised Code for a retail dealer 351
that sells E85 blend fuel. The credit may be claimed for tax years 352
2007, 2008, and 2009. The credit shall equal fifteen cents per 353
gallon of E85 blend fuel sold and dispensed through metered pumps 354

located at the retail dealer's retail service station during the 355
tax year. The credit shall be calculated separately for each 356
retail service station owned or operated by the retail dealer. 357

(C) The retail dealer shall claim the credit under this 358
section in the order prescribed in section 5733.98 of the Revised 359
Code. If the amount of the credit exceeds the amount of tax 360
otherwise due under section 5733.06 of the Revised Code, after 361
deducting all other credits that precede the credit under this 362
section in that order, the excess shall be refunded to the retail 363
dealer. For purposes of making tax payments under this chapter, 364
taxes equal to the amount of the refundable credit shall be 365
considered to be paid to this state on the first day of the tax 366
year. 367

(D) The tax commissioner may require that the retail dealer 368
furnish information as is necessary to support a claim for a tax 369
credit under this section, and no credit shall be allowed unless 370
that information is provided. 371

Sec. 5733.98. (A) To provide a uniform procedure for 372
calculating the amount of tax imposed by section 5733.06 of the 373
Revised Code that is due under this chapter, a taxpayer shall 374
claim any credits to which it is entitled in the following order, 375
except as otherwise provided in section 5733.058 of the Revised 376
Code: 377

(1) For tax year 2005, the credit for taxes paid by a 378
qualifying pass-through entity allowed under section 5733.0611 of 379
the Revised Code; 380

(2) The credit allowed for financial institutions under 381
section 5733.45 of the Revised Code; 382

(3) The credit for qualifying affiliated groups under section 383
5733.068 of the Revised Code; 384

(4) The subsidiary corporation credit under section 5733.067 of the Revised Code;	385 386
(5) The savings and loan assessment credit under section 5733.063 of the Revised Code;	387 388
(6) The credit for recycling and litter prevention donations under section 5733.064 of the Revised Code;	389 390
(7) The credit for employers that enter into agreements with child day-care centers under section 5733.36 of the Revised Code;	391 392
(8) The credit for employers that reimburse employee child care expenses under section 5733.38 of the Revised Code;	393 394
(9) The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code;	395 396
(10) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;	397 398
(11) The job retention credit under division (B) of section 5733.0610 of the Revised Code;	399 400
(12) The credit for purchases of new manufacturing machinery and equipment under section 5733.31 or section 5733.311 of the Revised Code;	401 402 403
(13) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;	404 405
(14) The job training credit under section 5733.42 of the Revised Code;	406 407
(15) The credit for qualified research expenses under section 5733.351 of the Revised Code;	408 409
(16) The enterprise zone credit under section 5709.66 of the Revised Code;	410 411
(17) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;	412 413

(18) The credit for employers that establish on-site child day-care centers under section 5733.37 of the Revised Code;	414 415
(19) The ethanol plant investment credit under section 5733.46 of the Revised Code;	416 417
(20) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;	418 419
(21) The export sales credit under section 5733.069 of the Revised Code;	420 421
(22) The credit for research and development and technology transfer investors under section 5733.35 of the Revised Code;	422 423
(23) The enterprise zone credits under section 5709.65 of the Revised Code;	424 425
(24) The credit for using Ohio coal under section 5733.39 of the Revised Code;	426 427
(25) The credit for small telephone companies under section 5733.57 of the Revised Code;	428 429
(26) The credit for eligible nonrecurring 9-1-1 charges under section 5733.55 of the Revised Code;	430 431
(27) For tax year 2005, the credit for providing programs to aid the communicatively impaired under division (A) of section 5733.56 of the Revised Code;	432 433 434
(28) The research and development credit under section 5733.352 of the Revised Code;	435 436
(29) For tax years 2006 and subsequent tax years, the credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code;	437 438 439
(30) The refundable jobs creation credit under division (A) of section 5733.0610 of the Revised Code;	440 441
(31) The refundable credit for tax withheld under division	442

(B)(2) of section 5747.062 of the Revised Code; 443

(32) The refundable credit under section 5733.49 of the 444
Revised Code for losses on loans made to the Ohio venture capital 445
program under sections 150.01 to 150.10 of the Revised Code; 446

(33) For tax years 2006, 2007, and 2008, the refundable 447
credit allowable under division (B) of section 5733.56 of the 448
Revised Code; 449

(34) For tax years 2007, 2008, and 2009, the refundable 450
credit for selling E85 blend fuel under section 5733.47 of the 451
Revised Code. 452

(B) For any credit except the credits enumerated in divisions 453
(A)(30), ~~(31)~~, ~~(32)~~, and ~~(33)~~ to (34) of this section, the amount 454
of the credit for a tax year shall not exceed the tax due after 455
allowing for any other credit that precedes it in the order 456
required under this section. Any excess amount of a particular 457
credit may be carried forward if authorized under the section 458
creating that credit. 459

Sec. 5747.76. (A) As used in this section: 460

(1) "Blended biodiesel" and "biodiesel" have the same 461
meanings as in section 125.831 of the Revised Code. 462

(2) "Distribution percentage" means the total gallons of 463
renewable fuel sold at a retail service station, expressed as a 464
percentage of a retail dealer's total gallons of gasoline sold at 465
that retail service station, in the applicable determination 466
period designated in divisions (C)(1) to (16) of this section. 467

(3) "Ethanol" means fermentation ethyl alcohol derived from 468
agricultural products, including potatoes, cereal, grains, cheese 469
whey, and sugar beets; forest products; or other renewable 470
resources, including residue and waste generated from the 471
production, processing, and marketing of agricultural products, 472

forest products, and other renewable resources that meet all of 473
the specifications in the American society for testing and 474
materials (ASTM) specification D 4806-88 and is denatured as 475
specified in Parts 20 and 21 of Title 27 of the Code of Federal 476
Regulations. 477

(4) "Ethanol blended gasoline" means a formulation of 478
gasoline blended with ethanol, which formulation contains at least 479
ten per cent ethanol by volume. 480

(5) "Gasoline" has the same meaning as in section 5735.01 of 481
the Revised Code. 482

(6) "Renewable fuel" means biodiesel, blended biodiesel, 483
ethanol, or ethanol blended gasoline. 484

(7) "Retail dealer" means any person that is a taxpayer under 485
this chapter that owns or operates a retail service station 486
located in this state. 487

(8) "Retail service station" means a location from which 488
renewable fuel is sold to the general public and is dispensed or 489
pumped directly into motor vehicle fuel tanks for consumption. 490

(B) For taxable years beginning on and after January 1, 2010, 491
but ending on or before December 31, 2025, there is allowed a 492
refundable credit against the tax imposed by section 5747.02 of 493
the Revised Code for a retail dealer that sells renewable fuel. 494
The credit shall equal six and one-half cents per gallon of 495
renewable fuel sold and dispensed through metered pumps located at 496
the retail dealer's retail service station during the taxable 497
year, if the retail dealer's distribution percentage during the 498
taxable year equals or exceeds the applicable threshold percentage 499
set forth in divisions (C)(1) to (16) of this section. If the 500
retail dealer's distribution percentage during a taxable year is 501
less than the applicable threshold percentage set forth in 502
divisions (C)(1) to (16) of this section, but is more than fifty 503

per cent of that threshold percentage, the amount of the credit is 504
three and one-fourth cents per gallon of renewable fuel sold and 505
dispensed through metered pumps located at the retail dealer's 506
retail service station during the taxable year. The credit shall 507
be calculated separately for each retail service station owned or 508
operated by the retail dealer. The credit allowed under this 509
section may not be claimed for taxable years beginning on or after 510
January 1, 2026. 511

(C) A retail dealer's renewable fuel threshold percentage is 512
as follows: 513

(1) Ten per cent for the determination period beginning on 514
January 1, 2010, and ending December 31, 2010; 515

(2) Eleven per cent for the determination period beginning on 516
January 1, 2011, and ending December 31, 2011; 517

(3) Twelve per cent for the determination period beginning on 518
January 1, 2012, and ending December 31, 2012; 519

(4) Thirteen per cent for the determination period beginning 520
on January 1, 2013, and ending December 31, 2013; 521

(5) Fourteen per cent for the determination period beginning 522
on January 1, 2014, and ending December 31, 2014; 523

(6) Fifteen per cent for the determination period beginning 524
on January 1, 2015, and ending December 31, 2015; 525

(7) Sixteen per cent for the determination period beginning 526
on January 1, 2016, and ending December 31, 2016; 527

(8) Seventeen per cent for the determination period beginning 528
on January 1, 2017, and ending December 31, 2017; 529

(9) Eighteen per cent for the determination period beginning 530
on January 1, 2018, and ending December 31, 2018; 531

(10) Nineteen per cent for the determination period beginning 532

<u>on January 1, 2019, and ending December 31, 2019;</u>	533
<u>(11) Twenty per cent for the determination period beginning</u>	534
<u>on January 1, 2020, and ending December 31, 2020;</u>	535
<u>(12) Twenty-one per cent for the determination period</u>	536
<u>beginning on January 1, 2021, and ending December 31, 2021;</u>	537
<u>(13) Twenty-two per cent for the determination period</u>	538
<u>beginning on January 1, 2022, and ending December 31, 2022;</u>	539
<u>(14) Twenty-three per cent for the determination period</u>	540
<u>beginning on January 1, 2023, and ending December 31, 2023;</u>	541
<u>(15) Twenty-four per cent for the determination period</u>	542
<u>beginning on January 1, 2024, and ending December 31, 2024;</u>	543
<u>(16) Twenty-five per cent for the determination period</u>	544
<u>beginning on January 1, 2025, and ending December 31, 2025.</u>	545
<u>(D) The retail dealer shall claim the credit under this</u>	546
<u>section in the order prescribed in section 5747.98 of the Revised</u>	547
<u>Code. If the amount of the credit exceeds the amount of tax</u>	548
<u>otherwise due under section 5747.02 of the Revised Code, after</u>	549
<u>deducting all other credits that precede the credit allowed under</u>	550
<u>this section in that order, the excess shall be refunded to the</u>	551
<u>retail dealer. For purposes of making tax payments under this</u>	552
<u>chapter, taxes equal to the amount of the refundable credit shall</u>	553
<u>be considered to be paid to this state on the first day of the</u>	554
<u>taxable year.</u>	555
<u>(E) The tax commissioner may require that the retail dealer</u>	556
<u>furnish information as is necessary to support a claim for a tax</u>	557
<u>credit under this section, and no credit shall be allowed unless</u>	558
<u>that information is provided. The commissioner may adopt rules</u>	559
<u>necessary for the administration of the tax credit, including</u>	560
<u>rules that establish an application form and procedures governing</u>	561
<u>the application process for the credit.</u>	562

(F) Nothing in this section limits or disallows pass-through treatment of the credit if the retail dealer is a pass-through entity. 563
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Sec. 5747.77. (A) As used in this section: 566

(1) "E85 blend fuel" has the same meaning as in section 125.831 of the Revised Code. 567
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(2) "Retail dealer" means any person that is a taxpayer under this chapter and that owns or operates a retail service station located in this state. 569
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(3) "Retail service station" means a location from which E85 blend fuel is sold to the general public and is dispensed or pumped directly into motor vehicle fuel tanks for consumption. 572
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(B) For taxable years beginning in 2006, 2007, and 2008, there is allowed a refundable credit against the tax imposed by section 5747.02 of the Revised Code for a retail dealer that sells E85 blend fuel. The credit shall equal fifteen cents per gallon of E85 blend fuel sold and dispensed through metered pumps located at the retail dealer's retail service station during the taxable year. The credit shall be calculated separately for each retail service station owned or operated by the retail dealer. 575
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(C) The retail dealer shall claim the credit under this section in the order prescribed in section 5747.98 of the Revised Code. If the amount of the credit exceeds the amount of tax otherwise due under section 5747.02 of the Revised Code, after deducting all other credits that precede the credit allowed under this section in that order, the excess shall be refunded to the retail dealer. For purposes of making tax payments under this chapter, taxes equal to the amount of the refundable credit shall be considered to be paid to this state on the first day of the taxable year. 583
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(D) The tax commissioner may require that the retail dealer furnish information as is necessary to support a claim for a tax credit under this section, and no credit shall be allowed unless that information is provided. 593
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(E) Nothing in this section limits or disallows pass-through treatment of the credit if the retail dealer is a pass-through entity. 597
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Sec. 5747.98. (A) To provide a uniform procedure for calculating the amount of tax due under section 5747.02 of the Revised Code, a taxpayer shall claim any credits to which the taxpayer is entitled in the following order: 600
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(1) The retirement income credit under division (B) of section 5747.055 of the Revised Code; 604
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(2) The senior citizen credit under division (C) of section 5747.05 of the Revised Code; 606
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(3) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code; 608
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(4) The dependent care credit under section 5747.054 of the Revised Code; 610
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(5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code; 612
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(6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code; 614
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(7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code; 616
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(8) The low-income credit under section 5747.056 of the Revised Code; 618
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(9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code; 620
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(10) The campaign contribution credit under section 5747.29 of the Revised Code;	622 623
(11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	624 625
(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	626 627
(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	628 629
(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	630 631
(15) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;	632 633
(16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;	634 635
(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	636 637
(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	638 639
(19) The job retention credit under division (B) of section 5747.058 of the Revised Code;	640 641
(20) The credit for purchases of new manufacturing machinery and equipment under section 5747.26 or section 5747.261 of the Revised Code;	642 643 644
(21) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;	645 646 647
(22) The job training credit under section 5747.39 of the Revised Code;	648 649
(23) The enterprise zone credit under section 5709.66 of the	650

Revised Code;	651
(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	652 653
(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	654 655
(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;	656 657
(27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	658 659
(28) The export sales credit under section 5747.057 of the Revised Code;	660 661
(29) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;	662 663
(30) The enterprise zone credits under section 5709.65 of the Revised Code;	664 665
(31) The research and development credit under section 5747.331 of the Revised Code;	666 667
(32) The refundable jobs creation credit under division (A) of section 5747.058 of the Revised Code;	668 669
(33) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	670 671
(34) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;	672 673 674
(35) The refundable credit for tax withheld under division (B)(1) of section 5747.062 of the Revised Code;	675 676
(36) The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;	677 678 679

(37) The refundable credit for selling renewable fuel under 680
section 5747.76 of the Revised Code; 681

(38) The refundable credit for selling E85 blend fuel under 682
section 5747.77 of the Revised Code. 683

(B) For any credit, except the credits enumerated in 684
divisions (A)(32) to ~~(36)~~(38) of this section and the credit 685
granted under division (I) of section 5747.08 of the Revised Code, 686
the amount of the credit for a taxable year shall not exceed the 687
tax due after allowing for any other credit that precedes it in 688
the order required under this section. Any excess amount of a 689
particular credit may be carried forward if authorized under the 690
section creating that credit. Nothing in this chapter shall be 691
construed to allow a taxpayer to claim, directly or indirectly, a 692
credit more than once for a taxable year. 693

Section 2. That existing sections 125.834, 1327.50, 1327.61, 694
5733.01, 5733.98, and 5747.98 of the Revised Code are hereby 695
repealed. 696

Section 3. The Director of Agriculture shall not commence 697
prescribing by rule the alternative fuel quality testing program 698
required by section 1327.50 of the Revised Code, as amended by 699
this act, until the specifications referred to in that section 700
have been established by the American Society for Testing and 701
Materials and adopted by rule of the Director of Administrative 702
Services under section 125.831 of the Revised Code. When those 703
specifications have been so established and adopted, the Director 704
shall adopt rules for the program not later than 180 days 705
thereafter. 706