

1 AN ACT relating to a tax credit for alternative jet fuel.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Agriculturally based alternative jet fuel" means an alternative jet fuel
7 produced from agricultural biomass, including crops and agricultural
8 byproducts derived from agricultural or livestock production, such as corn,
9 soybeans, wheat, canola, animal fats, and biomass residues from trees,
10 wood, and grasses;

11 (b) "Alternative jet fuel" means a liquid fuel that can be used in an aircraft
12 without the need to modify the aircraft engines or existing fuel distribution
13 infrastructure, and that:

14 1. Consists of synthesized hydrocarbons and meets the requirements of:

15 a. The American Society for Testing and Materials International
16 Standard D7566; or

17 b. The American Society for Testing and Materials International
18 standard D1655;

19 2. Is derived from eligible feedstocks;

20 3. Is not derived from palm fatty acid distillates; and

21 4. Achieves at least a fifty percent (50%) lifecycle greenhouse gas
22 emissions reduction in comparison with petroleum-based jet fuel, as
23 determined by a test that shows the fuel production pathway achieves
24 at least a fifty percent (50%) reduction of the aggregate attributional
25 care lifecycle by measuring either:

26 a. Emissions under the lifecycle methodology for alternative jet
27 fuels adopted by the International Civil Aviation Organization

- 1 with the agreement of the United States; or
- 2 b. Greenhouse gas emissions values utilizing the most recent
- 3 version of Argonne National Laboratory's GREET model;
- 4 (c) "Alternative jet fuel producer" means an entity in this state that:
- 5 1. Produces alternative jet fuel; or
- 6 2. Blends SBC with conventional aviation gasoline or jet fuel;
- 7 (d) "Eligible feedstock" means any feedstock that qualifies as an eligible
- 8 feedstock for purposes of Section 45Z of the Internal Revenue Code;
- 9 (e) "Eligible taxpayer" means an alternative jet fuel producer or feedstock
- 10 provider that is located in the Commonwealth;
- 11 (f) "Feedstock provider" means an entity that manufactures an eligible
- 12 feedstock, including SBC, used in the process of making alternative jet fuel;
- 13 and
- 14 (g) "Synthetic blending component" or "SBC" means synthesized
- 15 hydrocarbons that meet the requirements in any one (1) of the annexes of
- 16 the American Society for Testing and Materials International standard
- 17 D7566, which may then be used as a component in the manufacture of
- 18 alternative jet fuel.
- 19 (2) (a) There shall be allowed a nonrefundable, nontransferable alternative jet fuel
- 20 credit allowed against the taxes imposed in KRS 141.020 or 141.040 and
- 21 141.0401 for alternative jet fuel producers in an amount certified by the
- 22 department under this section, with the ordering of the credits as provided
- 23 in Section 2 of this Act.
- 24 (b) For taxable years beginning on or after January 1, 2029, but before
- 25 January 1, 2035, an eligible taxpayer may claim a credit at a rate of:
- 26 1. Fifty cents (\$0.50) per gallon to a feedstock provider supplying either
- 27 eligible feedstocks or SBC to an alternative jet fuel producer;

- 1 2. One dollar and fifty cents (\$1.50) per gallon to an alternative jet fuel
2 producer that processes eligible feedstocks or blends SBC with
3 conventional jet fuel to produce alternative jet fuel;
4 3. Two dollars (\$2) per gallon to an alternative jet fuel producer that
5 processes eligible feedstocks or blends SBC with conventional jet fuel
6 to produce agriculturally based alternative jet fuel; or
7 4. Two dollars and fifty cents (\$2.50) per gallon to an alternative jet fuel
8 producer that processes eligible feedstocks or blends SBC with
9 conventional jet fuel to produce an agriculturally based alternative jet
10 fuel using an eligible feedstock that was produced in the
11 Commonwealth.
- 12 (3) (a) The credit allowed in subsection (2) of this section shall not be carried
13 forward to other taxable years.
- 14 (b) The total credit allowed in subsection (2)(b)1. and 2. of this section shall not
15 exceed two million dollars (\$2,000,000) per eligible taxpayer per taxable
16 year.
- 17 (c) The credits allowed in subsection (2) of this section may stack if the
18 alternative jet fuel producer is the same as the feedstock provider and shall
19 not exceed three dollars (\$3) per gallon per entity.
- 20 (d) The aggregate total credit certified in a calendar year shall not exceed
21 twenty million dollars (\$20,000,000). If the aggregate total of credits
22 certified exceeds twenty million dollars (\$20,000,000), the department shall
23 apportion credits pro rata among eligible taxpayers up to the twenty million
24 dollar (\$20,000,000) limit.
- 25 (4) The department, in conjunction with the Kentucky Department of Agriculture
26 and the Energy and Environment Cabinet, shall promulgate emergency and
27 ordinary administrative regulations in accordance with KRS Chapter 13A to

1 adopt:

2 (a) Forms and procedures necessary for implementation, calculation,
3 reporting, and certification of the credit no later than October 1, 2028;

4 (b) Verification standards and processes to ensure the fuel meets the
5 requirements to be alternative jet fuel or agriculturally based alternative jet
6 fuel; and

7 (c) Verification standards and processes to ensure each alternative jet fuel
8 producer and feedstock provider meets the criteria established in subsection
9 (1)(c) and (f) of this section.

10 (5) The department, Kentucky Department of Agriculture, and Energy and
11 Environment Cabinet shall report to the Interim Joint Committee on
12 Appropriations and Revenue when administrative regulations have been
13 promulgated under subsection (4) of this section, and the credit provided in this
14 section shall not be approved prior to the report.

15 (6) (a) An eligible taxpayer seeking approval for the credit under this section shall:

16 1. Submit an application to the department, on a form as prescribed by
17 the department, by January 15, 2030, following the close of the
18 calendar year, and each January 15 thereafter as long as the credit is
19 available; and

20 2. Provide the:

21 a. Taxpayer's identification number; and

22 b. Description and amount or volume of alternative jet fuel, eligible
23 feedstock, or SBC:

24 i. Produced, including anticipated production amounts, for
25 the calendar year; or

26 ii. Blended, including anticipated production amounts, for the
27 calendar year.

1 **(b) The department shall:**

- 2 **1. Review all applications submitted by eligible taxpayers by February**
3 **15, 2030, and each February 15 thereafter as long as the credit is**
4 **available;**
5 **2. Determine the qualifying volumes of alternative jet fuel, eligible**
6 **feedstock, or SBC per eligible taxpayer; and**
7 **3. Issue a certification by March 1, 2030, and each March 1 thereafter as**
8 **long as the credit is available, of the credit amount approved for each**
9 **eligible taxpayer.**

10 **(7) (a) In order for the General Assembly to evaluate the alternative jet fuel**
11 **producer credit, by November 1, 2030, and each November 1 thereafter, as**
12 **long as the tax credit is claimed on any tax return filed, the department**
13 **shall report the following to the Legislative Research Commission for**
14 **referral to the Interim Joint Committee on Appropriations and Revenue and**
15 **the Department of Agriculture:**

- 16 **1. The number of tax returns, by the tax type of return filed, claiming the**
17 **credit for each taxable year;**
18 **2. The total amount of credit claimed on returns filed for each taxable**
19 **year;**
20 **3. The total number of gallons claimed per return filed of:**
21 **a. Eligible feedstock or SBC provided;**
22 **b. Eligible feedstock processed or SBC blended with conventional**
23 **jet fuel to produce alternative jet fuel;**
24 **c. Agriculturally based alternative jet fuel produced; and**
25 **d. Agriculturally based alternative jet fuel produced using an**
26 **eligible feedstock that was produced in the Commonwealth;**
27 **4. The cumulative number of credits claimed by county, as identified by**

1 the mailing address on the return filed for each taxable year; and

2 5. a. In the case of taxpayers other than corporations, based on
3 ranges of adjusted gross income of no larger than five thousand
4 dollars (\$5,000), the total amount of credits claimed for each
5 adjusted gross income range for each taxable year.

6 b. In the case of corporations, based on ranges of net income of no
7 larger than fifty thousand dollars (\$50,000), the total amount of
8 credit claimed for each net income range for each taxable year.

9 (b) The information required to be reported under this subsection shall not be
10 considered confidential taxpayer information and shall not be subject to
11 KRS Chapter 131 or any other provisions of the Kentucky Revised Statutes
12 prohibiting disclosure or reporting information.

13 ➔Section 2. KRS 141.0205 is amended to read as follows:

14 If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax
15 imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of
16 the credits shall be determined as follows:

17 (1) The nonrefundable business incentive credits against the tax imposed by KRS
18 141.020 shall be taken in the following order:

- 19 (a) The limited liability entity tax credit permitted by KRS 141.0401;
20 (b) The economic development credits computed under KRS 141.347, 141.381,
21 141.384, 141.3841, 141.400, 141.403, 141.407, 141.415, 154.12-207, and
22 154.12-2088;
23 (c) The qualified farming operation credit permitted by KRS 141.412;
24 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
25 (e) The health insurance credit permitted by KRS 141.062;
26 (f) The tax paid to other states credit permitted by KRS 141.070;
27 (g) The credit for hiring the unemployed permitted by KRS 141.065;

- 1 (h) The recycling or composting equipment credit permitted by KRS 141.390;
- 2 (i) The ~~tax~~ credit for cash contributions in investment funds permitted by KRS
- 3 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
- 4 154.20-258;
- 5 (j) The research facilities credit permitted by KRS 141.395;
- 6 (k) The employer High School Equivalency Diploma program incentive credit
- 7 permitted under KRS 151B.402;
- 8 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 9 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 10 (n) The clean coal incentive credit permitted by KRS 141.428;
- 11 (o) The ethanol credit permitted by KRS 141.4242;
- 12 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 13 (q) The energy efficiency credits permitted by KRS 141.436;
- 14 (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 15 (s) The Endow Kentucky credit permitted by KRS 141.438;
- 16 (t) The New Markets Development Program credit permitted by KRS 141.434;
- 17 (u) The distilled spirits credit permitted by KRS 141.389;
- 18 (v) The angel investor credit permitted by KRS 141.396;
- 19 (w) The film industry credit permitted by KRS 141.383 for applications approved
- 20 on or after April 27, 2018, but before January 1, 2022;
- 21 (x) The inventory credit permitted by KRS 141.408;
- 22 (y) The renewable chemical production credit permitted by KRS 141.4231;~~and~~
- 23 (z) The qualified broadband investment ~~tax~~ credit permitted by KRS 141.391;
- 24 and
- 25 (aa) The alternative jet fuel producer credit permitted by Section 1 of this Act;
- 26 (2) After the application of the nonrefundable credits in subsection (1) of this section,
- 27 the nonrefundable personal tax credits against the tax imposed by KRS 141.020

1 shall be taken in the following order:

- 2 (a) The individual credits permitted by KRS 141.020(3);
3 (b) The credit permitted by KRS 141.066;
4 (c) The tuition credit permitted by KRS 141.069;
5 (d) The household and dependent care credit permitted by KRS 141.067;
6 (e) The income gap credit permitted by KRS 141.066; and
7 (f) The Education Opportunity Account Program ~~tax~~ credit permitted by KRS
8 141.522;

9 (3) After the application of the nonrefundable credits provided for in subsection (2) of
10 this section, the refundable credits against the tax imposed by KRS 141.020 shall be
11 taken in the following order:

- 12 (a) The individual withholding tax credit permitted by KRS 141.350;
13 (b) The individual estimated tax payment credit permitted by KRS 141.305;
14 (c) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and
15 171.397(1)(b);
16 (d) The film industry ~~tax~~ credit permitted by KRS 141.383 for applications
17 approved prior to April 27, 2018, or on or after January 1, 2022;
18 (e) The development area ~~tax~~ credit permitted by KRS 141.398;
19 (f) The decontamination ~~tax~~ credit permitted by KRS 141.419; and
20 (g) The pass-through entity tax credit permitted by KRS 141.209;

21 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the
22 tax imposed by KRS 141.040;

23 (5) The following nonrefundable credits shall be applied against the sum of the tax
24 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)
25 of this section, and the tax imposed by KRS 141.0401 in the following order:

- 26 (a) The economic development credits computed under KRS 141.347, 141.381,
27 141.384, 141.3841, 141.400, 141.403, 141.407, 141.415, 154.12-207, and

- 1 154.12-2088;
- 2 (b) The qualified farming operation credit permitted by KRS 141.412;
- 3 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 4 (d) The health insurance credit permitted by KRS 141.062;
- 5 (e) The unemployment credit permitted by KRS 141.065;
- 6 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 7 (g) The coal conversion credit permitted by KRS 141.041;
- 8 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
- 9 ending prior to January 1, 2008;
- 10 (i) The ~~tax~~ credit for cash contributions to investment funds permitted by KRS
- 11 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
- 12 154.20-258;
- 13 (j) The research facilities credit permitted by KRS 141.395;
- 14 (k) The employer High School Equivalency Diploma program incentive credit
- 15 permitted by KRS 151B.402;
- 16 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 17 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 18 (n) The clean coal incentive credit permitted by KRS 141.428;
- 19 (o) The ethanol credit permitted by KRS 141.4242;
- 20 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 21 (q) The energy efficiency credits permitted by KRS 141.436;
- 22 (r) The ENERGY STAR home or ENERGY STAR manufactured home credit
- 23 permitted by KRS 141.437;
- 24 (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 25 (t) The railroad expansion credit permitted by KRS 141.386;
- 26 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 27 (v) The New Markets Development Program credit permitted by KRS 141.434;

- 1 (w) The distilled spirits credit permitted by KRS 141.389;
- 2 (x) The film industry credit permitted by KRS 141.383 for applications approved
- 3 on or after April 27, 2018, but before January 1, 2022;
- 4 (y) The inventory credit permitted by KRS 141.408;
- 5 (z) The renewable chemical production ~~tax~~ credit permitted by KRS 141.4231;
- 6 (aa) The Education Opportunity Account Program ~~tax~~ credit permitted by KRS
- 7 141.522;~~and~~
- 8 (ab) The qualified broadband investment ~~tax~~ credit permitted by KRS 141.391;
- 9 and
- 10 **(ac) The alternative jet fuel producer credit permitted by Section 1 of this Act;**
- 11 **and**
- 12 (6) After the application of the nonrefundable credits in subsection (5) of this section,
- 13 the refundable credits shall be taken in the following order:
- 14 (a) The corporation estimated tax payment credit permitted by KRS 141.044;
- 15 (b) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and
- 16 171.397(1)(b);
- 17 (c) The film industry ~~tax~~ credit permitted by KRS 141.383 for applications
- 18 approved prior to April 27, 2018, or on or after January 1, 2022;
- 19 (d) The decontamination ~~tax~~ credit permitted by KRS 141.419; and
- 20 (e) The pass-through entity tax credit permitted by KRS 141.209.
- 21 ➔Section 3. KRS 131.190 is amended to read as follows:
- 22 (1) No present or former commissioner or employee of the department, present or
- 23 former member of a county board of assessment appeals, present or former property
- 24 valuation administrator or employee, present or former secretary or employee of the
- 25 Finance and Administration Cabinet, former secretary or employee of the Revenue
- 26 Cabinet, or any other person, shall intentionally and without authorization inspect
- 27 or divulge any information acquired by him or her of the affairs of any person, or

1 information regarding the tax schedules, returns, or reports required to be filed with
2 the department or other proper officer, or any information produced by a hearing or
3 investigation, insofar as the information may have to do with the affairs of the
4 person's business.

5 (2) The prohibition established by subsection (1) of this section shall not extend to:

6 (a) Information required in prosecutions for making false reports or returns of
7 property for taxation, or any other infraction of the tax laws;

8 (b) Any matter properly entered upon any assessment record, or in any way made
9 a matter of public record;

10 (c) Furnishing any taxpayer or his or her properly authorized agent with
11 information respecting his or her own return;

12 (d) Testimony provided by the commissioner or any employee of the department
13 in any court, or the introduction as evidence of returns or reports filed with the
14 department, in an action for violation of state or federal tax laws or in any
15 action challenging state or federal tax laws;

16 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or
17 energy resources assessed under KRS 132.820, or owners of surface land
18 under which the unmined minerals lie, factual information about the owner's
19 property derived from third-party returns filed for that owner's property, under
20 the provisions of KRS 132.820, that is used to determine the owner's
21 assessment. This information shall be provided to the owner on a confidential
22 basis, and the owner shall be subject to the penalties provided in KRS
23 131.990(2). The third-party filer shall be given prior notice of any disclosure
24 of information to the owner that was provided by the third-party filer;

25 (f) Providing to a third-party purchaser pursuant to an order entered in a
26 foreclosure action filed in a court of competent jurisdiction, factual
27 information related to the owner or lessee of coal, oil, gas reserves, or any

- 1 other mineral resources assessed under KRS 132.820. The department may
2 promulgate an administrative regulation establishing a fee schedule for the
3 provision of the information described in this paragraph. Any fee imposed
4 shall not exceed the greater of the actual cost of providing the information or
5 ten dollars (\$10);
- 6 (g) Providing information to a licensing agency, the Transportation Cabinet, or
7 the Kentucky Supreme Court under KRS 131.1817;
- 8 (h) Statistics of gasoline and special fuels gallonage reported to the department
9 under KRS 138.210 to 138.448;
- 10 (i) Providing any utility gross receipts license tax return information that is
11 necessary to administer the provisions of KRS 160.613 to 160.617 to
12 applicable school districts on a confidential basis;
- 13 (j) Providing documents, data, or other information to a third party pursuant to an
14 order issued by a court of competent jurisdiction;
- 15 (k) Publishing administrative writings on its official website in accordance with
16 KRS 131.020(1)(b); or
- 17 (l) Providing information to the Legislative Research Commission under:
- 18 1. KRS 139.519 for purposes of the sales and use tax refund on building
19 materials used for disaster recovery;
- 20 2. KRS 141.436 for purposes of the energy efficiency products credits;
- 21 3. KRS 141.437 for purposes of the ENERGY STAR home and the
22 ENERGY STAR manufactured home credits;
- 23 4. KRS 141.383 for purposes of the film industry incentives;
- 24 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
25 credit and the job assessment fees;
- 26 6. KRS 141.068 for purposes of the Kentucky investment fund;
- 27 7. KRS 141.396 for purposes of the angel investor credit;

- 1 8. KRS 141.389 for purposes of the distilled spirits credit;
- 2 9. KRS 141.408 for purposes of the inventory credit;
- 3 10. KRS 141.390 for purposes of the recycling and composting credits;
- 4 11. KRS 141.3841 for purposes of the selling farmer credit;
- 5 12. KRS 141.4231 for purposes of the renewable chemical production
- 6 credit;
- 7 13. KRS 141.524 for purposes of the Education Opportunity Account
- 8 Program credit;
- 9 14. KRS 141.398 for purposes of the development area credit;
- 10 15. KRS 139.516 for purposes of the sales and use tax exemptions for the
- 11 commercial mining of cryptocurrency;
- 12 16. KRS 141.419 for purposes of the decontamination credit;
- 13 17. KRS 141.391 for purposes of the qualified broadband investment credit;
- 14 18. KRS 139.499 for purposes of the sales and use tax exemptions for a
- 15 qualified data center project;~~and~~
- 16 19. KRS 139.5325 for purposes of the sales and use tax incentive for a
- 17 qualifying attraction;and
- 18 20. Section 1 of this Act for the purposes of the alternative jet fuel
- 19 producer credit.

- 20 (3) The commissioner shall make available any information for official use only and on
- 21 a confidential basis to the proper officer, agency, board or commission of this state,
- 22 any Kentucky county, any Kentucky city, any other state, or the federal
- 23 government, under reciprocal agreements whereby the department shall receive
- 24 similar or useful information in return.
- 25 (4) Access to and inspection of information received from the Internal Revenue Service
- 26 is for department use only, and is restricted to tax administration purposes.
- 27 Information received from the Internal Revenue Service shall not be made available

1 to any other agency of state government, or any county, city, or other state, and
2 shall not be inspected intentionally and without authorization by any present
3 secretary or employee of the Finance and Administration Cabinet, commissioner or
4 employee of the department, or any other person.

5 (5) Statistics of crude oil as reported to the department under the crude oil excise tax
6 requirements of KRS Chapter 137 and statistics of natural gas production as
7 reported to the department under the natural resources severance tax requirements
8 of KRS Chapter 143A may be made public by the department by release to the
9 Energy and Environment Cabinet, Department for Natural Resources.

10 (6) Notwithstanding any provision of law to the contrary, beginning with mine-map
11 submissions for the 1989 tax year, the department may make public or divulge only
12 those portions of mine maps submitted by taxpayers to the department pursuant to
13 KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-
14 out parcel areas. These electronic maps shall not be relied upon to determine actual
15 boundaries of mined-out parcel areas. Property boundaries contained in mine maps
16 required under KRS Chapters 350 and 352 shall not be construed to constitute land
17 surveying or boundary surveys as defined by KRS 322.010 and any administrative
18 regulations promulgated thereto.