

As Introduced

134th General Assembly

Regular Session

2021-2022

H. B. No. 165

Representative McClain

Cosponsors: Representatives Click, Koehler, Hoops, Johnson, Weinstein,
Ghanbari, Lipps, Carfagna, Riedel, Creech, Miller, J., Manchester, Richardson

A BILL

To amend sections 5747.98 and 5751.98 and to enact 1
sections 5747.74 and 5751.55 of the Revised Code 2
to temporarily authorize a nonrefundable tax 3
credit for the retail sale of high-ethanol blend 4
motor fuel. 5

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

Section 1. That sections 5747.98 and 5751.98 be amended 6
and sections 5747.74 and 5751.55 of the Revised Code be enacted 7
to read as follows: 8

Sec. 5747.74. (A) As used in this section: 9

(1) "Ethanol" has the same meaning as in section 122.075 10
of the Revised Code. 11

(2) "Higher ethanol blend" means a fuel capable of being 12
dispensed directly into motor vehicle fuel tanks for consumption 13
that is comprised of between and including fifteen and eighty- 14
five per cent ethanol. 15

(3) "Retail dealer" means a person that owns or operates a 16

retail service station. 17

(4) "Retail service station" means a location in this 18
state from which higher ethanol blend is sold to the general 19
public and is dispensed directly into motor vehicle fuel tanks 20
for consumption. 21

(B) There is hereby allowed a nonrefundable credit against 22
a taxpayer's aggregate tax liability under section 5747.02 of 23
the Revised Code for a taxpayer that is a retail dealer that 24
sells higher ethanol blend at the dealer's retail service 25
station. The credit shall equal five cents per gallon of higher 26
ethanol blend the retail dealer sells and dispenses through 27
metered pumps at the dealer's retail service station during the 28
four calendar years after the calendar year in which this 29
section becomes law. The credit shall be claimed for the 30
taxpayer's taxable year that includes the last day of the 31
calendar year in which the sales are made. 32

The taxpayer shall claim the credit in the order required 33
by section 5747.98 of the Revised Code. Any credit amount in 34
excess of the taxpayer's tax liability, after allowing for any 35
other credits preceding the credit in that order, may be carried 36
forward for succeeding taxable years, but the amount of excess 37
credit allowed in any such year shall be deducted from the 38
balance carried forward to the next year. 39

If the taxpayer is a direct or indirect investor in a 40
pass-through entity that is a retail dealer that has sold and 41
dispensed higher ethanol blend as described in this section, the 42
taxpayer may claim its proportionate or distributive share of 43
the credit allowed under this section. 44

No credit shall be allowed under this section for the sale 45

of higher ethanol blend if that sale is the basis of credit 46
claimed under section 5751.55 of the Revised Code. 47

Sec. 5747.98. (A) To provide a uniform procedure for 48
calculating a taxpayer's aggregate tax liability under section 49
5747.02 of the Revised Code, a taxpayer shall claim any credits 50
to which the taxpayer is entitled in the following order: 51

Either the retirement income credit under division (B) of 52
section 5747.055 of the Revised Code or the lump sum retirement 53
income credits under divisions (C), (D), and (E) of that 54
section; 55

Either the senior citizen credit under division (F) of 56
section 5747.055 of the Revised Code or the lump sum 57
distribution credit under division (G) of that section; 58

The dependent care credit under section 5747.054 of the 59
Revised Code; 60

The credit for displaced workers who pay for job training 61
under section 5747.27 of the Revised Code; 62

The campaign contribution credit under section 5747.29 of 63
the Revised Code; 64

The twenty-dollar personal exemption credit under section 65
5747.022 of the Revised Code; 66

The joint filing credit under division (G) of section 67
5747.05 of the Revised Code; 68

The earned income credit under section 5747.71 of the 69
Revised Code; 70

The credit for adoption of a minor child under section 71
5747.37 of the Revised Code; 72

The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	73 74
The enterprise zone credit under section 5709.66 of the Revised Code;	75 76
The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	77 78
The small business investment credit under section 5747.81 of the Revised Code;	79 80
The nonrefundable lead abatement credit under section 5747.26 of the Revised Code;	81 82
<u>The nonrefundable credit for the sale of higher ethanol blend motor fuel under section 5747.74 of the Revised Code;</u>	83 84
The opportunity zone investment credit under section 122.84 of the Revised Code;	85 86
The enterprise zone credits under section 5709.65 of the Revised Code;	87 88
The research and development credit under section 5747.331 of the Revised Code;	89 90
The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	91 92
The nonresident credit under division (A) of section 5747.05 of the Revised Code;	93 94
The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	95 96
The refundable motion picture and Broadway theatrical production credit under section 5747.66 of the Revised Code;	97 98

The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	99 100 101
The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	102 103
The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section 5747.08 of the Revised Code;	104 105 106
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;	107 108 109
The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code.	110 111
(B) For any credit, except the refundable credits enumerated in this section and the credit granted under division (H) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the taxpayer's aggregate amount of tax due under section 5747.02 of the Revised Code, after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.	112 113 114 115 116 117 118 119 120 121 122
<u>Sec. 5751.55. (A) Terms used in this section have the same meanings as in section 5747.74 of the Revised Code.</u>	123 124
<u>(B) There is hereby allowed a nonrefundable credit against a taxpayer's aggregate tax liability under section 5751.02 of the Revised Code for a taxpayer that is a retail dealer that</u>	125 126 127

sells higher ethanol blend at the dealer's retail service 128
station. The credit shall equal five cents per gallon of higher 129
ethanol blend the retail dealer sells and dispenses through 130
metered pumps at the dealer's retail service station during the 131
four calendar years after the calendar year in which this 132
section becomes law. The credit shall be claimed for the 133
taxpayer's tax period that includes the last day of the calendar 134
year in which the sales are made. 135

The taxpayer shall claim the credit in the order required 136
by section 5751.98 of the Revised Code. Any credit amount in 137
excess of the taxpayer's tax liability, after allowing for any 138
other credits preceding the credit in that order, may be carried 139
forward for succeeding tax periods, but the amount of excess 140
credit allowed in any such period shall be deducted from the 141
balance carried forward to the next period. 142

No credit shall be allowed under this section for the sale 143
of higher ethanol blend if that sale is the basis of credit 144
claimed under section 5747.74 of the Revised Code. 145

Sec. 5751.98. (A) To provide a uniform procedure for 146
calculating the amount of tax due under this chapter, a taxpayer 147
shall claim any credits to which it is entitled in the following 148
order: 149

The nonrefundable jobs retention credit under division (B) 150
of section 5751.50 of the Revised Code; 151

The nonrefundable credit for qualified research expenses 152
under division (B) of section 5751.51 of the Revised Code; 153

The nonrefundable credit for a borrower's qualified 154
research and development loan payments under division (B) of 155
section 5751.52 of the Revised Code; 156

<u>The nonrefundable credit for the sale of higher ethanol</u>	157
<u>blend motor fuel under section 5751.55 of the Revised Code;</u>	158
The nonrefundable credit for calendar years 2010 to 2029	159
for unused net operating losses under division (B) of section	160
5751.53 of the Revised Code;	161
The refundable motion picture and Broadway theatrical	162
production credit under section 5751.54 of the Revised Code;	163
The refundable jobs creation credit or job retention	164
credit under division (A) of section 5751.50 of the Revised	165
Code;	166
The refundable credit for calendar year 2030 for unused	167
net operating losses under division (C) of section 5751.53 of	168
the Revised Code.	169
(B) For any credit except the refundable credits	170
enumerated in this section, the amount of the credit for a tax	171
period shall not exceed the tax due after allowing for any other	172
credit that precedes it in the order required under this	173
section. Any excess amount of a particular credit may be carried	174
forward if authorized under the section creating the credit.	175
Section 2. That existing sections 5747.98 and 5751.98 of	176
the Revised Code are hereby repealed.	177