

**As Passed by the House**

**134th General Assembly**

**Regular Session**

**2021-2022**

**Sub. H. B. No. 165**

**Representative McClain**

**Cosponsors: Representatives Click, Koehler, Hoops, Johnson, Weinstein, Ghanbari, Lipps, Carfagna, Riedel, Creech, Miller, J., Manchester, Richardson, Baldrige, Callender, Crossman, Galonski, Ginter, Grendell, Hillyer, Jarrells, John, Jones, Lanese, Liston, Miller, A., Miller, K., Plummer, Russo, Sobacki, Sweeney, Troy, Upchurch, West, Young, T.**

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**A BILL**

To amend sections 5747.98 and 5751.98 and to enact  
sections 122.078, 5747.74, and 5751.55 of the  
Revised Code to temporarily authorize a  
nonrefundable tax credit for the retail sale of  
high-ethanol blend motor fuel.

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

**Section 1.** That sections 5747.98 and 5751.98 be amended  
and sections 122.078, 5747.74, and 5751.55 of the Revised Code  
be enacted to read as follows:

**Sec. 122.078.** (A) As used in this section:

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

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

(3) "Retail dealer" means a person that owns or operates a retail service station. 16  
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(4) "Retail service station" means a location in this state from which higher ethanol blend is sold to the general public and is dispensed directly into motor vehicle fuel tanks for consumption. 18  
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(B) A retail dealer may apply to the director of development services for a tax credit under section 5747.74 or 5751.55 of the Revised Code. The credit shall equal five cents per gallon of higher ethanol blend the retail dealer sells and dispenses through metered pumps at the retail dealer's retail service station during the calendar year. 22  
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The application may be submitted after the first day and before the twenty-first day of January of the year following the the calendar year in which the sales are made. The application shall be made on a form and in the manner prescribed by the director, and shall, at a minimum, include any information and documentation sufficient to establish that the applicant meets the eligibility criteria prescribed by this section. 28  
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(C) If the director determines that the applicant qualifies for a credit under this section, the director shall issue, within fifteen days after the receipt of a complete application under division (B) of this section, a tax credit certificate to the taxpayer. The tax credit certificate shall be identified with a unique number and shall list the amount of credit the director determines the retail dealer is eligible to claim under section 5747.74 or 5751.55 of the Revised Code. The director shall send a copy of each tax credit certificate to the tax commissioner. 35  
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(D) (1) The director shall not award more than ten million 45  
dollars in tax credits under this section. 46

(2) The director shall not award tax credits under this 47  
section for retail sales of higher ethanol blend that occur more 48  
than four calendar years after the calendar year in which this 49  
section becomes law. 50

**Sec. 5747.74.** There is hereby allowed a nonrefundable 51  
credit against the taxpayer's aggregate tax liability under 52  
section 5747.02 of the Revised Code for a taxpayer issued a tax 53  
credit certificate under section 122.078 of the Revised Code. 54  
The credit shall equal the dollar amount indicated on the 55  
certificate. The credit shall be claimed for the taxpayer's 56  
taxable year that includes the last day of the calendar year in 57  
which the sales that are the basis of the credit are made. 58

The taxpayer shall claim the credit in the order required 59  
by section 5747.98 of the Revised Code. Any credit amount in 60  
excess of the taxpayer's tax liability, after allowing for any 61  
other credits preceding the credit in that order, may be carried 62  
forward for succeeding taxable years, but the amount of excess 63  
credit allowed in any such year shall be deducted from the 64  
balance carried forward to the next year. 65

If the taxpayer is a direct or indirect investor in a 66  
pass-through entity that was issued a tax credit certificate 67  
under section 122.078 of the Revised Code, the taxpayer may 68  
claim its proportionate or distributive share of the credit 69  
allowed under this section. 70

A taxpayer claiming a credit under this section may not 71  
claim the credit authorized under section 5751.55 of the Revised 72  
Code on the basis of the same tax credit certificate. 73

<b>Sec. 5747.98.</b> (A) To provide a uniform procedure for	74
calculating a taxpayer's aggregate tax liability under section	75
5747.02 of the Revised Code, a taxpayer shall claim any credits	76
to which the taxpayer is entitled in the following order:	77
Either the retirement income credit under division (B) of	78
section 5747.055 of the Revised Code or the lump sum retirement	79
income credits under divisions (C), (D), and (E) of that	80
section;	81
Either the senior citizen credit under division (F) of	82
section 5747.055 of the Revised Code or the lump sum	83
distribution credit under division (G) of that section;	84
The dependent care credit under section 5747.054 of the	85
Revised Code;	86
The credit for displaced workers who pay for job training	87
under section 5747.27 of the Revised Code;	88
The campaign contribution credit under section 5747.29 of	89
the Revised Code;	90
The twenty-dollar personal exemption credit under section	91
5747.022 of the Revised Code;	92
The joint filing credit under division (G) of section	93
5747.05 of the Revised Code;	94
The earned income credit under section 5747.71 of the	95
Revised Code;	96
The credit for adoption of a minor child under section	97
5747.37 of the Revised Code;	98
The nonrefundable job retention credit under division (B)	99
of section 5747.058 of the Revised Code;	100

The enterprise zone credit under section 5709.66 of the Revised Code;	101 102
The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	103 104
The small business investment credit under section 5747.81 of the Revised Code;	105 106
The nonrefundable lead abatement credit under section 5747.26 of the Revised Code;	107 108
<u>The nonrefundable credit for the sale of higher ethanol blend motor fuel under section 5747.74 of the Revised Code;</u>	109 110
The opportunity zone investment credit under section 122.84 of the Revised Code;	111 112
The enterprise zone credits under section 5709.65 of the Revised Code;	113 114
The research and development credit under section 5747.331 of the Revised Code;	115 116
The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	117 118
The nonresident credit under division (A) of section 5747.05 of the Revised Code;	119 120
The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	121 122
The refundable motion picture and Broadway theatrical production credit under section 5747.66 of the Revised Code;	123 124
The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	125 126 127

The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	128 129
The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section 5747.08 of the Revised Code;	130 131 132
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;	133 134 135
The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code.	136 137
(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.	138 139 140 141 142 143 144 145 146 147 148
<u>Sec. 5751.55. There is hereby allowed a nonrefundable credit against the tax levied under section 5751.02 of the Revised Code for a taxpayer issued a tax credit certificate under section 122.078 of the Revised Code. The credit shall equal the dollar amount indicated on the certificate. The credit shall be claimed for the taxpayer's tax period that includes the last day of the calendar year in which the sales that are the basis of the credit are made.</u>	149 150 151 152 153 154 155 156

The taxpayer shall claim the credit in the order required 157  
by section 5751.98 of the Revised Code. Any credit amount in 158  
excess of the taxpayer's tax liability, after allowing for any 159  
other credits preceding the credit in that order, may be carried 160  
forward for succeeding tax periods, but the amount of excess 161  
credit allowed in any such period shall be deducted from the 162  
balance carried forward to the next period. 163

A taxpayer claiming a credit under this section may not 164  
claim the credit authorized under section 5747.74 of the Revised 165  
Code on the basis of the same tax credit certificate. 166

**Sec. 5751.98.** (A) To provide a uniform procedure for 167  
calculating the amount of tax due under this chapter, a taxpayer 168  
shall claim any credits to which it is entitled in the following 169  
order: 170

The nonrefundable jobs retention credit under division (B) 171  
of section 5751.50 of the Revised Code; 172

The nonrefundable credit for qualified research expenses 173  
under division (B) of section 5751.51 of the Revised Code; 174

The nonrefundable credit for a borrower's qualified 175  
research and development loan payments under division (B) of 176  
section 5751.52 of the Revised Code; 177

The nonrefundable credit for the sale of higher ethanol 178  
blend motor fuel under section 5751.55 of the Revised Code; 179

The nonrefundable credit for calendar years 2010 to 2029 180  
for unused net operating losses under division (B) of section 181  
5751.53 of the Revised Code; 182

The refundable motion picture and Broadway theatrical 183  
production credit under section 5751.54 of the Revised Code; 184

The refundable jobs creation credit or job retention credit under division (A) of section 5751.50 of the Revised Code; 185  
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The refundable credit for calendar year 2030 for unused net operating losses under division (C) of section 5751.53 of the Revised Code. 188  
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(B) For any credit except the refundable credits enumerated in this section, the amount of the credit for a tax period shall not exceed the tax due 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 the credit. 191  
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**Section 2.** That existing sections 5747.98 and 5751.98 of the Revised Code are hereby repealed. 197  
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**Section 3.** Pursuant to division (G) of section 5703.95 of the Revised Code, which states that any bill introduced in the House of Representatives or the Senate that proposes to enact or modify one or more tax expenditures should include a statement explaining the objectives of the tax expenditure or its modification and the sponsor's intent in proposing the tax expenditure or its modification: 199  
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The objective of this act is to expand Ohioans' access to high-blend biofuels. The temporary credit is designed to offset the infrastructure costs that retailers incur to bring the product to market. Due to upfront costs and industry restrictions designed to limit the offering of competitive fuels in the market place, it is the General Assembly's intent to support the free market and ensure Ohio consumers have a more diverse selection of fuel options. 206  
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