

As Reported by the House Ways and Means Committee

135th General Assembly

Regular Session

2023-2024

Am. H. B. No. 324

Representatives McClain, Klopfenstein

Cosponsors: Representatives Bird, Brennan, Click, Creech, Dobos, Gross, Hoops, King, Lipps, Lorenz, Manchester, Miller, J., Peterson, Richardson, Williams, Willis, Roemer, Troy, Dell'Aquila, Hall

A BILL

To amend sections 5747.98 and 5751.98 and to enact 1
sections 122.078, 5747.74, and 5751.56 of the 2
Revised Code to temporarily authorize a 3
nonrefundable tax credit for the retail sale of 4
high-ethanol blend 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 122.078, 5747.74, and 5751.56 of the Revised Code 7
be enacted to read as follows: 8

Sec. 122.078. (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) A retail dealer may apply to the director of 22
development services for a tax credit under section 5747.74 or 23
5751.56 of the Revised Code. The credit shall equal five cents 24
per gallon of higher ethanol blend the retail dealer sells and 25
dispenses through metered pumps at the retail dealer's retail 26
service station during the calendar year. 27

The application may be submitted after the first day and 28
before the twenty-first day of January of the year following the 29
the calendar year in which the sales are made. The application 30
shall be made on a form and in the manner prescribed by the 31
director, and shall, at a minimum, include any information and 32
documentation sufficient to establish that the applicant meets 33
the eligibility criteria prescribed by this section. 34

(C) If the director determines that the applicant 35
qualifies for a credit under this section, the director shall 36
issue, within fifteen days after the receipt of a complete 37
application under division (B) of this section, a tax credit 38
certificate to the taxpayer. The tax credit certificate shall be 39
identified with a unique number and shall list the amount of 40
credit the director determines the retail dealer is eligible to 41
claim under section 5747.74 or 5751.56 of the Revised Code. The 42
director shall send a copy of each tax credit certificate to the 43
tax commissioner. 44

(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 5751.56 of the Revised 72
Code on the basis of the same tax credit certificate. 73

Sec. 5747.98. (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)~~(E) 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 nonrefundable credit for education expenses under 97
section 5747.72 of the Revised Code; 98

The nonrefundable credit for donations to scholarship 99
granting organizations under section 5747.73 of the Revised 100
Code; 101

The nonrefundable credit for tuition paid to a nonchartered nonpublic school under section 5747.75 of the Revised Code;	102 103 104
The nonrefundable vocational job credit under section 5747.057 of the Revised Code;	105 106
The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	107 108
The enterprise zone credit under section 5709.66 of the Revised Code;	109 110
The credit for beginning farmers who participate in a financial management program under division (B) of section 5747.77 of the Revised Code;	111 112 113
The credit for commercial vehicle operator training expenses under section 5747.82 of the Revised Code;	114 115
The nonrefundable welcome home Ohio (WHO) program credit under section 122.633 of the Revised Code;	116 117
The credit for selling or renting agricultural assets to beginning farmers under division (A) of section 5747.77 of the Revised Code;	118 119 120
The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	121 122
The small business investment credit under section 5747.81 of the Revised Code;	123 124
The nonrefundable lead abatement credit under section 5747.26 of the Revised Code;	125 126
<u>The nonrefundable credit for the sale of higher ethanol blend motor fuel under section 5747.74 of the Revised Code;</u>	127 128

The opportunity zone investment credit under section 122.84 of the Revised Code;	129 130
The enterprise zone credits under section 5709.65 of the Revised Code;	131 132
The research and development credit under section 5747.331 of the Revised Code;	133 134
The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	135 136
The nonrefundable Ohio low-income housing tax credit under section 5747.83 of the Revised Code;	137 138
The nonrefundable affordable single-family home credit under section 5747.84 of the Revised Code;	139 140
The nonresident credit under division (A) of section 5747.05 of the Revised Code;	141 142
The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	143 144
The refundable motion picture and Broadway theatrical production credit under section 5747.66 of the Revised Code;	145 146
The refundable credit for film and theater capital improvement projects under section 5747.67 of the Revised Code;	147 148
The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	149 150 151
The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	152 153
The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section	154 155

5747.08 of the Revised Code;	156
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;	157 158 159
The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	160 161
The refundable credit under section 5747.39 of the Revised Code for taxes levied under section 5747.38 of the Revised Code paid by an electing pass-through entity.	162 163 164
(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.	165 166 167 168 169 170 171 172 173 174 175
<u>Sec. 5751.56. 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 in which the tax credit certificate is issued.</u>	176 177 178 179 180 181 182
<u>The taxpayer shall claim the credit in the order required by section 5751.98 of the Revised Code. Any credit amount in</u>	183 184

excess of the taxpayer's tax liability, after allowing for any 185
other credits preceding the credit in that order, may be carried 186
forward for succeeding tax periods, but the amount of excess 187
credit allowed in any such period shall be deducted from the 188
balance carried forward to the next period. 189

A taxpayer claiming a credit under this section may not 190
claim the credit authorized under section 5747.74 of the Revised 191
Code on the basis of the same tax credit certificate. 192

Sec. 5751.98. (A) To provide a uniform procedure for 193
calculating the amount of tax due under this chapter, a taxpayer 194
shall claim any credits to which it is entitled in the following 195
order: 196

The nonrefundable jobs retention credit under division (B) 197
of section 5751.50 of the Revised Code; 198

The nonrefundable credit for qualified research expenses 199
under division (B) of section 5751.51 of the Revised Code; 200

The nonrefundable credit for a borrower's qualified 201
research and development loan payments under division (B) of 202
section 5751.52 of the Revised Code; 203

The nonrefundable credit for the sale of higher ethanol 204
blend motor fuel under section 5751.56 of the Revised Code; 205

The nonrefundable credit for calendar years 2010 to 2029 206
for unused net operating losses under division (B) of section 207
5751.53 of the Revised Code; 208

The refundable motion picture and Broadway theatrical 209
production credit under section 5751.54 of the Revised Code; 210

The refundable credit for film and theater capital 211
improvement projects under section 5751.55 of the Revised Code; 212

The refundable jobs creation credit or job retention credit under division (A) of section 5751.50 of the Revised Code;	213 214 215
The refundable credit for calendar year 2030 for unused net operating losses under division (C) of section 5751.53 of the Revised Code.	216 217 218
(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.	219 220 221 222 223 224
Section 2. That existing sections 5747.98 and 5751.98 of the Revised Code are hereby repealed.	225 226