

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 a section*
3 *numbered 58.1-439.12:02, relating to biodiesel fuels producers income tax credit.*

4 [H 139]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**

7 **1. That the Code of Virginia is amended by adding in Article 13 of Chapter 3 of Title 58.1 a**
8 **section numbered 58.1-439.12:02 as follows:**

9 *§ 58.1-439.12:02. Biodiesel fuels producers tax credit.*

10 *A. For purposes of this section:*

11 *"Biodiesel fuels" means biodiesel or green diesel that is a renewable, biodegradable, and*
12 *combustible liquid fluid fuel from agricultural or silvicultural plants, animal fats, or other renewable*
13 *resources including residue and waste generated from the production, processing, and marketing of*
14 *agricultural products, silvicultural products, and other renewable resources that meets American Society*
15 *for Testing and Materials (ASTM) specifications for Biodiesel Fuel (B100) Blend Stock for Distillate*
16 *Fuels, ASTM specification for green diesel for highway transportation use, or applicable fuel*
17 *specifications for other use.*

18 *"Feedstock" means the agricultural or other renewable resources, whether plant or animal derived,*
19 *used to produce biodiesel fuels.*

20 *"Producer" means any person, entity, or agricultural cooperative association, as defined in the*
21 *Agricultural Cooperative Association Act (§ 13.1-312 et seq.) that, in a calendar year, produces in the*
22 *Commonwealth up to two million gallons of biodiesel fuels using feedstock originating domestically*
23 *within the United States.*

24 *B. For taxable years beginning on or after January 1, 2008, any taxpayer who is a biodiesel fuels*
25 *producer shall be entitled to a nonrefundable credit against the taxes imposed by § 58.1-320 or*
26 *58.1-400 in an amount equal to \$0.01 per gallon of biodiesel fuels produced by such taxpayer.*
27 *However, the annual amount of the credit shall not exceed \$5,000. The taxpayer shall be eligible for the*
28 *credit during the first three years of production of biodiesel fuels.*

29 *Any taxpayer entitled to a credit under this section may transfer unused but otherwise allowable*
30 *credits for use by another taxpayer on Virginia income tax returns. A taxpayer who transfers any*
31 *amount of the credit in accordance with this section shall file a notification of such transfer to the*
32 *Department in accordance with procedures and forms prescribed by the Tax Commissioner.*

33 *C. The Department of Mines, Minerals and Energy shall certify that the biodiesel fuels producer has*
34 *satisfied the requirements of this section for the taxable year in which the credit is allowed. In addition,*
35 *the taxpayer shall submit with his income tax return all documentation as required by the Department of*
36 *Taxation. Any credit not usable for the taxable year may be carried over the next three taxable years.*
37 *The amount of the credit allowed pursuant to this section shall not exceed the tax imposed for such*
38 *taxable year.*

39 *D. For purposes of this section, the amount of any credit attributable to a partnership, electing small*
40 *business corporation (S corporation), or limited liability company shall be allocated to the individual*
41 *partners, shareholders, or members, respectively, in proportion to their ownership or interest in such*
42 *business entity.*

ENROLLED

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