



## 2005 ASSEMBLY BILL 809

November 3, 2005 - Introduced by Representatives SHERIDAN, FREESE, HAHN, BENEDICT, BIES, DAVIS, GRONEMUS, GUNDERSON, HEBL, HINES, KREIBICH, LAMB, LOTHIAN, MOLEPSKE, MUSSER, SEIDEL, TOWNS, TURNER and VRUWINK, cosponsored by Senators HARSDORF and HANSEN. Referred to Committee on Rural Affairs and Renewable Energy.

1     **AN ACT to amend** 71.05 (6) (a) 15., 71.08 (1) (intro.), 71.21 (4), 71.26 (2) (a), 71.34  
2           (1) (g), 71.45 (2) (a) 10. and 77.92 (4); and **to create** 71.07 (5e), 71.10 (4) (gn),  
3           71.28 (5e), 71.30 (3) (dq), 71.47 (5e) and 71.49 (1) (dq) of the statutes; **relating**  
4           **to:** creating an income and franchise tax credit for motor vehicles that use  
5           gasoline and ethanol mixtures as fuel.

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### *Analysis by the Legislative Reference Bureau*

This bill creates an income and franchise tax credit that is equal to the amount of sales and use taxes a person paid in the taxable year on the purchase of any new motor vehicle that is licensed for highway use and capable of using both gasoline and a mixture of gasoline and at least 85 percent ethanol as a fuel to propel the motor vehicle. The amount of the credit that a person may claim may not exceed an amount equal to \$1,000 for each motor vehicle purchased in the taxable year. The credit may be claimed for taxable years beginning after December 31, 2005, and before January 1, 2011.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

**ASSEMBLY BILL 809****SECTION 1**

1           **SECTION 1.** 71.05 (6) (a) 15. of the statutes is amended to read:

2           71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),  
3 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), ~~and (5d)~~, and (5e)  
4 and not passed through by a partnership, limited liability company, or tax-option  
5 corporation that has added that amount to the partnership's, company's, or  
6 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

7           **SECTION 2.** 71.07 (5e) of the statutes is created to read:

8           71.07 **(5e)** FLEXIBLE FUEL MOTOR VEHICLES CREDIT. (a) *Definitions.* In this  
9 subsection, "claimant" means a person who files a claim under this subsection.

10           (b) *Filing claims.* Subject to the limitations provided under this subsection, for  
11 taxable years beginning after December 31, 2005, and before January 1, 2011, a  
12 claimant may claim as a credit against the taxes imposed under ss. 71.02 and 71.08,  
13 up to the amount of the taxes, an amount that is equal to the amount of the taxes  
14 imposed under subch. III of ch. 77 that the claimant paid in the taxable year on the  
15 purchase of any new motor vehicle, licensed for highway use, that is capable of using  
16 both gasoline and a mixture of gasoline and at least 85 percent ethanol as a fuel to  
17 propel the motor vehicle.

18           (c) *Limitations.* 1. The maximum amount of the credit that a claimant may  
19 claim under this subsection in a taxable year is an amount equal to \$1,000,  
20 multiplied by the number of motor vehicles described under par. (b) that the claimant  
21 purchased in the taxable year.

22           2. Partnerships, limited liability companies, and tax-option corporations may  
23 not claim the credit under this subsection, but the eligibility for, and the amount of,  
24 the credit are based on their payment of amounts described under par. (b). A  
25 partnership, limited liability company, or tax-option corporation shall compute the

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1 amount of credit that each of its partners, members, or shareholders may claim and  
2 shall provide that information to each of them. Partners, members of limited liability  
3 companies, and shareholders of tax-option corporations may claim the credit in  
4 proportion to their ownership interests.

5 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under  
6 s. 71.28 (4), applies to the credit under this subsection.

7 **SECTION 3.** 71.08 (1) (intro.) of the statutes, as affected by 2005 Wisconsin Act  
8 25, is amended to read:

9 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married  
10 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under  
11 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3n), (3s),  
12 (3t), (5b), (5d), (5e), (6), (6e), and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds),  
13 (1dx), (1fd), (2m), (3), (3n), ~~and (3t)~~, and (5e), and 71.47 (1dd), (1de), (1di), (1dj), (1dL),  
14 (1ds), (1dx), (1fd), (2m), (3), (3n), ~~and (3t)~~, and (5e), and subchs. VIII and IX and  
15 payments to other states under s. 71.07 (7), is less than the tax under this section,  
16 there is imposed on that natural person, married couple filing jointly, trust, or estate,  
17 instead of the tax under s. 71.02, an alternative minimum tax computed as follows:

18 **SECTION 4.** 71.10 (4) (gn) of the statutes is created to read:

19 71.10 (4) (gn) Flexible fuel motor vehicles credit under s. 71.07 (5e).

20 **SECTION 5.** 71.21 (4) of the statutes is amended to read:

21 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),  
22 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), ~~and (5b)~~, and (5e) and passed  
23 through to partners shall be added to the partnership's income.

24 **SECTION 6.** 71.26 (2) (a) of the statutes is amended to read:

**ASSEMBLY BILL 809****SECTION 6**

1           71.26 (2) (a) *Corporations in general.* The “net income” of a corporation means  
2 the gross income as computed under the Internal Revenue Code as modified under  
3 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit  
4 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)  
5 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income  
6 under this paragraph at the time that the taxpayer first claimed the credit plus the  
7 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),  
8 (1ds), (1dx), (3g), (3n), (3t), ~~and (5b), and (5e)~~ and not passed through by a  
9 partnership, limited liability company, or tax-option corporation that has added that  
10 amount to the partnership’s, limited liability company’s, or tax-option corporation’s  
11 income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or  
12 other disposition of assets the gain from which would be wholly exempt income, as  
13 defined in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and  
14 minus deductions, as computed under the Internal Revenue Code as modified under  
15 sub. (3), plus or minus, as appropriate, an amount equal to the difference between  
16 the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or  
17 otherwise disposed of in a taxable transaction during the taxable year, except as  
18 provided in par. (b) and s. 71.45 (2) and (5).

19           **SECTION 7.** 71.28 (5e) of the statutes is created to read:

20           71.28 (5e) FLEXIBLE FUEL MOTOR VEHICLES CREDIT. (a) *Definitions.* In this  
21 subsection, “claimant” means a person who files a claim under this subsection.

22           (b) *Filing claims.* Subject to the limitations provided under this subsection, for  
23 taxable years beginning after December 31, 2005, and before January 1, 2011, a  
24 claimant may claim as a credit against the taxes imposed under s. 71.23, up to the  
25 amount of the taxes, an amount that is equal to the amount of the taxes imposed

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1 under subch. III of ch. 77 that the claimant paid in the taxable year on the purchase  
2 of any new motor vehicle, licensed for highway use, that is capable of using both  
3 gasoline and a mixture of gasoline and at least 85 percent ethanol as a fuel to propel  
4 the motor vehicle.

5 (c) *Limitations.* 1. The maximum amount of the credit that a claimant may  
6 claim under this subsection in a taxable year is an amount equal to \$1,000,  
7 multiplied by the number of motor vehicles described under par. (b) that the claimant  
8 purchased in the taxable year.

9 2. Partnerships, limited liability companies, and tax-option corporations may  
10 not claim the credit under this subsection, but the eligibility for, and the amount of,  
11 the credit are based on their payment of amounts described under par. (b). A  
12 partnership, limited liability company, or tax-option corporation shall compute the  
13 amount of credit that each of its partners, members, or shareholders may claim and  
14 shall provide that information to each of them. Partners, members of limited liability  
15 companies, and shareholders of tax-option corporations may claim the credit in  
16 proportion to their ownership interests.

17 (d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under  
18 sub. (4), applies to the credit under this subsection.

19 **SECTION 8.** 71.30 (3) (dq) of the statutes is created to read:

20 71.30 (3) (dq) Flexible fuel motor vehicles credit under s. 71.28 (5e).

21 **SECTION 9.** 71.34 (1) (g) of the statutes is amended to read:

22 71.34 (1) (g) An addition shall be made for credits computed by a tax-option  
23 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),  
24 (3n), (3t), ~~and (5b)~~, and (5e) and passed through to shareholders.

25 **SECTION 10.** 71.45 (2) (a) 10. of the statutes is amended to read:

**ASSEMBLY BILL 809****SECTION 10**

1           71.45 (2) (a) 10. By adding to federal taxable income the amount of credit  
2           computed under s. 71.47 (1dd) to (1dx), (3n), ~~and (5b)~~, and (5e) and not passed  
3           through by a partnership, limited liability company, or tax-option corporation that  
4           has added that amount to the partnership's, limited liability company's, or  
5           tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and the amount of  
6           credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

7           **SECTION 11.** 71.47 (5e) of the statutes is created to read:

8           71.47 (5e) FLEXIBLE FUEL MOTOR VEHICLES CREDIT. (a) *Definitions.* In this  
9           subsection, "claimant" means a person who files a claim under this subsection.

10           (b) *Filing claims.* Subject to the limitations provided under this subsection, for  
11           taxable years beginning after December 31, 2005, and before January 1, 2011, a  
12           claimant may claim as a credit against the taxes imposed under s. 71.43, up to the  
13           amount of the taxes, an amount that is equal to the amount of the taxes imposed  
14           under subch. III of ch. 77 that the claimant paid in the taxable year on the purchase  
15           of any new motor vehicle, licensed for highway use, that is capable of using both  
16           gasoline and a mixture of gasoline and at least 85 percent ethanol as a fuel to propel  
17           the motor vehicle.

18           (c) *Limitations.* 1. The maximum amount of the credit that a claimant may  
19           claim under this subsection in a taxable year is an amount equal to \$1,000,  
20           multiplied by the number of motor vehicles described under par. (b) that the claimant  
21           purchased in the taxable year.

22           2. Partnerships, limited liability companies, and tax-option corporations may  
23           not claim the credit under this subsection, but the eligibility for, and the amount of,  
24           the credit are based on their payment of amounts described under par. (b). A  
25           partnership, limited liability company, or tax-option corporation shall compute the

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1 amount of credit that each of its partners, members, or shareholders may claim and  
2 shall provide that information to each of them. Partners, members of limited liability  
3 companies, and shareholders of tax-option corporations may claim the credit in  
4 proportion to their ownership interests.

5 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under  
6 s. 71.28 (4), applies to the credit under this subsection.

7 **SECTION 12.** 71.49 (1) (dq) of the statutes is created to read:

8 71.49 (1) (dq) Flexible fuel motor vehicles credit under s. 71.47 (5e).

9 **SECTION 13.** 77.92 (4) of the statutes is amended to read:

10 77.92 (4) "Net business income," with respect to a partnership, means taxable  
11 income as calculated under section 703 of the Internal Revenue Code; plus the items  
12 of income and gain under section 702 of the Internal Revenue Code, including taxable  
13 state and municipal bond interest and excluding nontaxable interest income or  
14 dividend income from federal government obligations; minus the items of loss and  
15 deduction under section 702 of the Internal Revenue Code, except items that are not  
16 deductible under s. 71.21; plus guaranteed payments to partners under section 707  
17 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),  
18 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), and (5b), and (5e); and  
19 plus or minus, as appropriate, transitional adjustments, depreciation differences,  
20 and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding  
21 income, gain, loss, and deductions from farming. "Net business income," with respect  
22 to a natural person, estate, or trust, means profit from a trade or business for federal  
23 income tax purposes and includes net income derived as an employee as defined in  
24 section 3121 (d) (3) of the Internal Revenue Code.

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(END)