

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
90th General Assembly
Regular Session, 2015

As Engrossed: H2/4/15
A Bill

HOUSE BILL 1201

By: Representative Jett

By: Senator Burnett

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING THE INCOME TAX CREDIT FOR WASTE REDUCTION, REUSE, OR RECYCLING EQUIPMENT AS IT APPLIES TO QUALIFIED MANUFACTURERS OF STEEL; TO PROVIDE QUALIFIED MANUFACTURERS OF STEEL WITH ALTERNATE QUALIFICATION STANDARDS AND AN EXTENDED CARRY-FORWARD PERIOD FOR THE INCOME TAX CREDIT ALLOWED FOR WASTE REDUCTION, REUSE, OR RECYCLING EQUIPMENT; AND FOR OTHER PURPOSES.

Subtitle

TO PROVIDE QUALIFIED MANUFACTURERS OF STEEL WITH ALTERNATE QUALIFICATION STANDARDS AND AN EXTENDED CARRY-FORWARD PERIOD FOR THE INCOME TAX CREDIT ALLOWED FOR WASTE REDUCTION, REUSE, OR RECYCLING EQUIPMENT.

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

SECTION 1. DO NOT CODIFY. Legislative findings.

The General Assembly finds that:

(1) Arkansas is one (1) of the leading producers of steel in the United States, and Mississippi County, Arkansas, is ranked as one (1) of the top (2) highest steel-producing counties in the United States;

(2) The steel industry in the United States is highly competitive, and there are presently rising prices and a high level of demand



for raw materials in the domestic market;

(3) The five-year global recession that began in 2008 and current economic conditions in the steel industry are continuing to substantially affect the profitability of many Arkansas companies and reduce the ability of Arkansas steel producers to utilize existing incentive programs that are intended to encourage capital investment in this state; and

(4) In order to protect and preserve Arkansas jobs and encourage continuing capital investment by steel producers in this state, adjustments in the Arkansas recycling tax credit are appropriate to allow the tax credit to be utilized more fully to accomplish the purposes for which the tax credit is intended.

SECTION 2. Arkansas Code Title 26, Chapter 51, Subchapter 12, is amended to add an additional section to read as follows:

26-51-1215. Tax credit for waste reduction, reuse, or recycling equipment.

(a) As used in this section, "waste reduction, reuse, or recycling equipment" means the same as defined in § 26-51-506 except that it also includes production, processing, and testing equipment used to manufacture products containing recovered materials.

(b) To be eligible for the income tax credit allowed under this section, a taxpayer shall:

(1) Be a qualified manufacturer of steel as defined in § 26-51-1211, § 26-52-901, § 26-52-911, Act 1084 of 2013, or Act 1476 of 2013;

(2) Have made the minimum investment required under § 26-51-1212, § 26-52-902, § 26-52-912, Act 1084 of 2013, or Act 1476 of 2013; and

(3) Either:

(A) Have obtained a certification under § 26-51-1212, § 26-52-902, § 26-52-912, Act 1084 of 2013, or Act 1476 of 2013; or

(B) Be located on the same or an adjacent manufacturing site as a qualified manufacturer of steel that has obtained such a certification.

(c)(1) A qualified manufacturer of steel that qualifies for the income tax credit for the purchase of waste reduction, reuse, or recycling equipment under § 26-51-506 may carry forward any unused income tax credit earned under § 26-51-506 for a period of fourteen (14) consecutive years following the

taxable year in which the income tax credit originated.

(2) Sections 5(b) and 7(a)(1)(B) of Act 1084 of 2013 and Act 1476 of 2013 shall continue to apply to the carry forward period for qualified manufacturers of steel certified under those acts.

(3) Income tax credits that would otherwise expire during the carry forward period shall be claimed first.

(d) To claim the benefits of § 26-51-506, a qualified manufacturer of steel shall either:

(1) Meet the requirements of § 26-51-506(d); or

(2) Obtain a certification from the Director of the Arkansas Department of Environmental Quality certifying to the Revenue Division of the Department of Finance and Administration that:

(A) The qualified manufacturer of steel is engaged in the business of reducing, reusing, or recycling solid waste material for commercial purposes, whether or not for profit;

(B) The machinery or equipment purchased is waste reduction, reuse, or recycling equipment;

(C) The machinery or equipment is being used in the collection, separation, processing, modification, conversion, treatment, or manufacturing of products containing at least twenty-five percent (25%) postconsumer waste; and

(D) The qualified manufacturer of steel has filed a statement with the director acknowledging that the qualified manufacturer of steel will make a good faith effort to utilize Arkansas post-consumer waste as a part of the materials used.

(e)(1) Except as provided in subdivision (e)(2) of this section, § 26-51-506(f) does not apply to a qualified manufacturer of steel meeting the requirements of this section.

(2) A qualified manufacturer of steel shall refund the amount required under subdivision (e)(3) of this section if within three (3) years of the taxable year in which the credit originated:

(A)(i) The waste reduction, reuse, or recycling equipment is removed from Arkansas, disposed of, or transferred to another person, or the qualified manufacturer of steel otherwise ceases to use the required materials or operate in accordance with § 26-51-506 or this section.

(ii) Reorganization transactions, changes of

ownership and control, and sales and transfers of waste reduction, reuse, or recycling equipment among affiliates that do not constitute sales or transfers to a third-party purchaser are not disposals, transfers, or cessations of use for purposes of § 26-51-506 or this section; or

(B) The director finds that the qualified manufacturer of steel has operated the waste reduction, reuse, or recycling equipment in a manner that demonstrates a pattern of intentional failure to comply with final administrative or judicial orders that clearly indicates a disregard for environmental regulation.

(3) If a qualified manufacturer of steel is required to make a refund under subdivision (e)(2) of this section, the qualified manufacturer of steel shall refund the amount of the allowed income tax credit claimed by the qualified manufacturer of steel that exceeds the following amounts:

(A) Within the first taxable year, zero dollars (\$0.00);

(B) Within the second taxable year, an amount equal to thirty-three percent (33%) of the amount of credit allowed; and

(C) Within the third taxable year, an amount equal to sixty-seven percent (67%) of the credit allowed.

(4) A refund required under subdivision (e)(2)(A) of this section applies only to the credit given for the particular waste reduction, reuse, or recycling equipment to which subdivision (e)(2)(A) of this section applies.

(5) A qualified manufacturer of steel that is required to refund part of an income tax credit under this section shall no longer be eligible to carry forward any amount of the income tax credit that had not been used as of the date the refund is required.

(f) A qualified manufacturer of steel aggrieved by a decision of the director under this section may appeal to the Arkansas Pollution Control and Ecology Commission through administrative procedures adopted by the commission and to the courts in the manner provided in §§ 8-4-222 – 8-4-229.

(g) Act 1084 of 2013 and Act 1476 of 2013 continue in full force and effect and are not amended or limited by this section.

(h) This section applies only to income tax credits certified on or after January 1, 2015.

/s/Jett