

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE SUBSTITUTE FOR  
SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NOS. 970, 968, 921,  
867, 868 & 738**  
91ST GENERAL ASSEMBLY

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Reported from the Committee on Transportation, April 30, 2002, with recommendation that the House Committee Substitute for Senate Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 970, 968, 921, 867, 868 & 738 Do Pass.

TED WEDEL, Chief Clerk

3307L.12C

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**AN ACT**

To repeal sections 136.055, 142.803, 144.020, 144.021, 144.805, 155.080, 226.030, 226.134, 226.200, 226.540, 226.550, 226.573, 226.580, 226.585, 226.670, 227.040, 227.050, 227.060, 227.100, 301.129, 302.720, 304.001, and 305.230, RSMo, and to enact in lieu thereof thirty-four new sections relating to transportation, with penalty provisions and a referendum clause.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 136.055, 142.803, 144.020, 144.021, 144.805, 155.080, 226.030, 226.134, 226.200, 226.540, 226.550, 226.573, 226.580, 226.585, 226.670, 227.040, 227.050, 227.060, 227.100, 301.129, 302.720, 304.001, and 305.230, RSMo, are repealed and thirty-four new sections enacted in lieu thereof, to be known as sections 43.272, 136.055, 142.803, 144.020, 144.021, 144.805, 155.080, 226.030, 226.134, 226.137, 226.200, 226.540, 226.550, 226.573, 226.580, 226.585, 226.670, 226.730, 227.040, 227.050, 227.060, 227.100, 227.107, 227.108, 234.032, 301.129, 302.720, 304.001, 304.370, 305.230, 307.205, 307.207, 307.209, and 307.211, to read as follows:

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

**43.272. 1. There is hereby created in the state treasury the "Missouri State Highway Patrol Fund", which shall consist of moneys distributed pursuant to subsection 3 of section 144.020, RSMo. The fund shall be administered by the department of public safety. Upon appropriation, moneys in the fund shall be used exclusively for purposes authorized in this chapter.**

**2. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.**

**3. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.**

136.055. 1. Any person who is selected or appointed by the state director of revenue to act as an agent of the department of revenue, whose duties shall be the sale of motor vehicle licenses and the collection of motor vehicle sales and use taxes under the provisions of section 144.440, RSMo, and who receives no salary from the department of revenue, shall be authorized to collect from the party requiring such services additional fees as compensation in full and for all services rendered on the following basis:

(1) For each motor vehicle or trailer license sold, renewed or transferred--two dollars and fifty cents beginning January 1, 1998; and four dollars beginning July 1, 2000[.]; **and five dollars beginning August 28, 2002, for those licenses biennially renewed pursuant to section 301.147, RSMo. Beginning July 1, 2003, for each motor vehicle or trailer license sold, renewed or transferred--three dollars and fifty cents and seven dollars for those licenses sold or biennially renewed pursuant to section 301.147, RSMo;**

(2) For each application or transfer of title--two dollars and fifty cents beginning January 1, 1998;

(3) For each chauffeur's, operator's or driver's license -- two dollars and fifty cents beginning January 1, 1998; and four dollars beginning July 1, 2000[.]; **and five dollars beginning July 1, 2003, for six-year licenses issued or renewed;**

(4) For each notice of lien processed--two dollars and fifty cents beginning August 28, 2000;

(5) No notary fee or other fee or additional charge shall be paid or collected except for electronic telephone transmission reception--two dollars.

2. [This section shall not apply to agents appointed by the state director of revenue in any city, other than a city not within a county, where the department of revenue maintains an office.] All fees charged shall not exceed those in this section.

**3. Beginning July 1, 2003, the fees imposed by this section shall be collected by all permanent branch offices and all full-time or temporary offices maintained by the department of revenue. The fees collected pursuant to this section by all permanent branch offices and all full time or temporary offices maintained by the department of revenue shall be deposited in a subaccount of the state highways and transportation department fund to be known as the**

**"Department of Revenue Collection Subaccount" which is hereby created. All fees collected by such offices shall be forwarded to the director of revenue and deposited in the state treasury to the credit of the department of revenue collection subaccount. Moneys from such subaccount shall be used, subject to appropriation by the general assembly, by the department of revenue to pay for the cost of collecting state revenues derived from highway users as an incident to their use or right to use the highways of the state. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the subaccount shall not be transferred to general revenue at the end of each biennium.**

[3.] 4. Any person acting as agent of the department of revenue for the sale and issuance of licenses and other documents related to motor vehicles shall have an insurable interest in all license plates, licenses, tabs, forms and other documents held on behalf of the department.

[4.] 5. The fee increases authorized by this section and approved by the general assembly were requested by the fee agents. All fee agent offices shall display a three foot by four foot sign with black letters of at least three inches in height on a white background which states:

The increased fees approved by the Missouri Legislature and charged by this fee office were requested by the fee agents.

142.803. 1. A tax is levied and imposed on all motor fuel used or consumed in this state as follows:

(1) Motor fuel, seventeen cents per gallon[. Beginning April 1, 2008, the tax rate shall become eleven cents per gallon];

(2) Alternative fuels, not subject to the decal fees as provided in section 142.869, with a power potential equivalent of motor fuel. In the event alternative fuel, which is not commonly sold or measured by the gallon, is used in motor vehicles on the highways of this state, the director is authorized to assess and collect a tax upon such alternative fuel measured by the nearest power potential equivalent to that of one gallon of regular grade gasoline. The determination by the director of the power potential equivalent of such alternative fuel shall be prima facie correct;

(3) Aviation fuel used in propelling aircraft with reciprocating engines, nine cents per gallon as levied and imposed by section 155.080, RSMo, to be collected as required under this chapter.

2. All taxes, surcharges and fees are imposed upon the ultimate consumer, but are to be precollected as described in this chapter, for the facility and convenience of the consumer. The levy and assessment on other persons as specified in this chapter shall be as agents of this state for the precollection of the tax.

144.020. 1. A tax is hereby levied and imposed upon all sellers for the privilege of engaging in the business of selling tangible personal property or rendering taxable service at retail in this state. The rate of

tax shall be as follows:

(1) Upon every retail sale in this state of tangible personal property, including but not limited to motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats and outboard motors, a tax equivalent to four percent of the purchase price paid or charged, or in case such sale involves the exchange of property, a tax equivalent to four percent of the consideration paid or charged, including the fair market value of the property exchanged at the time and place of the exchange, except as otherwise provided in section 144.025;

(2) A tax equivalent to four percent of the amount paid for admission and seating accommodations, or fees paid to, or in any place of amusement, entertainment or recreation, games and athletic events;

(3) A tax equivalent to four percent of the basic rate paid or charged on all sales of electricity or electrical current, water and gas, natural or artificial, to domestic, commercial or industrial consumers;

(4) A tax equivalent to four percent on the basic rate paid or charged on all sales of local and long distance telecommunications service to telecommunications subscribers and to others through equipment of telecommunications subscribers for the transmission of messages and conversations and upon the sale, rental or leasing of all equipment or services pertaining or incidental thereto; except that, the payment made by telecommunications subscribers or others, pursuant to section 144.060, and any amounts paid for access to the Internet or interactive computer services shall not be considered as amounts paid for telecommunications services;

(5) A tax equivalent to four percent of the basic rate paid or charged for all sales of services for transmission of messages of telegraph companies;

(6) A tax equivalent to four percent on the amount of sales or charges for all rooms, meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp or other place in which rooms, meals or drinks are regularly served to the public;

(7) A tax equivalent to four percent of the amount paid or charged for intrastate tickets by every person operating a railroad, sleeping car, dining car, express car, boat, airplane and such buses and trucks as are licensed by the division of motor carrier and railroad safety of the department of economic development of Missouri, engaged in the transportation of persons for hire;

(8) A tax equivalent to four percent of the amount paid or charged for rental or lease of tangible personal property, provided that if the lessor or renter of any tangible personal property had previously purchased the property under the conditions of "sale at retail" as defined in subdivision [(8)] (10) of section 144.010 or leased or rented the property and the tax was paid at the time of purchase, lease or rental, the lessor, sublessor, renter or subrenter shall not apply or collect the tax on the subsequent lease, sublease, rental or subrental receipts from that property. The purchase, rental or lease of motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats, and outboard motors shall be taxed and the tax paid as provided in this section and section 144.070. In no event shall the rental or lease of boats and outboard motors be considered a sale, charge, or fee to, for or in places of amusement, entertainment or recreation

nor shall any such rental or lease be subject to any tax imposed to, for, or in such places of amusement, entertainment or recreation. Rental and leased boats or outboard motors shall be taxed [under the provisions of] **pursuant to** the sales tax laws as provided under such laws for motor vehicles and trailers. Tangible personal property which is exempt from the sales or use tax [under] **pursuant to** section 144.030 upon a sale thereof is likewise exempt from the sales or use tax upon the lease or rental thereof.

2. All tickets sold which are sold [under the provisions of] **pursuant to** sections 144.010 to 144.525 which are subject to the sales tax shall have printed, stamped or otherwise endorsed thereon, the words "This ticket is subject to a sales tax."

3. **(1) In addition to the tax levied and imposed pursuant to subdivisions (1) to (8) of subsection 1 of this section, an additional tax of one percent is hereby levied and imposed upon all sellers for the privilege of engaging in the business of selling tangible personal property or rendering taxable service at retail in this state, and in addition to the tax levied and imposed pursuant to section 144.440, there is hereby levied and imposed upon every person for the privilege of using the highways or waterways of this state an additional tax equivalent to one percent of the purchase price, as defined in section 144.070, which is paid and charged on new and used motor vehicles, trailers, boats, and outboard motors purchased or acquired for use on the highways or waters of this state which are required to be registered pursuant to the laws of Missouri. Except for the revenue derived from the additional one percent rate imposed upon the sale of motor vehicles, trailers, motorcycles, and motortricycles, and the additional one percent imposed upon the purchase price of new and used motor vehicles, trailers, boats, and outboard motors for the privilege of using the highways or waterways of this state, which shall be distributed pursuant to article IV, section 30(b) of the Missouri Constitution, the revenue derived from the additional one percent rate imposed pursuant to this section shall be deposited and used exclusively as follows:**

**(a) One-fourth of such revenue to be deposited in the Missouri state highway patrol fund; these funds shall not reduce or offset any future appropriation to the Missouri state highway patrol and shall be in addition to any appropriation for the Missouri state highway patrol.**

**(b) Twenty million dollars per year to be deposited in the state transportation fund;**

**(c) The remainder of such revenue to be deposited in the state road fund.**

**(2) The additional revenue derived from the tax imposed by this subsection shall not be part of the total state revenue within the meaning of article X, sections 17 and 18 of the Missouri Constitution. The expenditure of this revenue shall not be an expense of state government pursuant to article X, section 20 of the Missouri Constitution. The additional tax imposed by this subsection shall expire on December 31, 2022.**

144.021. The purpose and intent of sections 144.010 to 144.510 is to impose a tax upon the privilege of engaging in the business, in this state, of selling tangible personal property and those services

listed in section 144.020. The primary tax burden is placed upon the seller making the taxable sales of property or service and is levied at the rate provided for in section 144.020. Excluding sections 144.070, 144.440 and 144.450, the extent to which a seller is required to collect the tax from the purchaser of the taxable property or service is governed by section 144.285 and in no way affects sections 144.080 and 144.100, which require all sellers to report to the director of revenue their "gross receipts", defined herein to mean the aggregate amount of the sales price of all sales at retail, and remit tax at [four] **five** percent of their gross receipts.

144.805. 1. In addition to the exemptions granted pursuant to the provisions of section 144.030, there shall also be specifically exempted from the provisions of sections 144.010 to 144.525, sections 144.600 to 144.748, and section 238.235, RSMo, and the provisions of any local sales tax law, as defined in section 32.085, RSMo, and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525, sections 144.600 to 144.748, and section 238.235, RSMo, and the provisions of any local sales tax law, as defined in section 32.085, RSMo, all sales of aviation jet fuel in a given calendar year to common carriers engaged in the interstate air transportation of passengers and cargo, and the storage, use and consumption of such aviation jet fuel by such common carriers, if such common carrier has first paid to the state of Missouri, in accordance with the provisions of this chapter, state sales and use taxes pursuant to the foregoing provisions and applicable to the purchase, storage, use or consumption of such aviation jet fuel in a maximum and aggregate amount of one million five hundred thousand dollars of state sales and use taxes in such calendar year.

2. To qualify for the exemption prescribed in subsection 1 of this section, the common carrier shall furnish to the seller a certificate in writing to the effect that an exemption pursuant to this section is applicable to the aviation jet fuel so purchased, stored, used and consumed. The director of revenue shall permit any such common carrier to enter into a direct-pay agreement with the department of revenue, pursuant to which such common carrier may pay directly to the department of revenue any applicable sales and use taxes on such aviation jet fuel up to the maximum aggregate amount of one million five hundred thousand dollars in each calendar year. The director of revenue shall adopt appropriate rules and regulations to implement the provisions of this section, and to permit appropriate claims for refunds of any excess sales and use taxes collected in calendar year 1993 or any subsequent year with respect to any such common carrier and aviation jet fuel.

3. The provisions of this section shall apply to all purchases and deliveries of aviation jet fuel from and after May 10, 1993.

4. [Effective September 1, 1998,] All sales and use tax revenues upon aviation jet fuel received pursuant to this chapter, less the amounts specifically designated pursuant to the constitution or pursuant to section 144.701, for other purposes, shall be deposited to the credit of the aviation trust fund established pursuant to section 305.230, RSMo[; provided however, the amount of such state sales and use tax revenues deposited to the credit of such aviation trust fund shall not exceed five million dollars in each

calendar year].

5. The provisions of this section and section 144.807 shall expire on December 31, [2003] **2008**.

155.080. 1. There is hereby imposed a use tax on each gallon of aviation fuel used in propelling aircraft with reciprocating engines. The tax is imposed at the rate of nine cents per gallon. Such tax is to be collected and remitted to this state or paid to this state in the same manner and method and at the same time as is prescribed by chapter 142, RSMo, for the collection of the motor fuel tax imposed on each gallon of motor fuel used in propelling motor vehicles upon the public highways of Missouri.

2. All applicable provisions contained in chapter 142, RSMo, governing administration, collection and enforcement of the state motor fuel tax shall apply to this section, including but not limited to reporting, penalties and interest.

3. Each commercial agricultural aircraft operator may apply for a refund of the tax it has paid for aviation fuel used in a commercial agricultural aircraft. All such applications for refunds shall be made in accordance with the procedures specified in chapter 142, RSMo, for refunds of motor fuel taxes paid. If any person who is eligible to receive a refund of aviation fuel tax fails to apply for a refund as provided in chapter 142, RSMo, [he makes a gift of his refund to the aviation trust fund] **the refund amount shall be deposited to the credit of the aviation trust fund pursuant to section 305.230, RSMo.**

226.030. [The state highways and transportation commission shall consist of six members, who shall be appointed by the governor, by and with the advice and consent of the senate, not more than three thereof to be members of the same political party. Each commissioner shall be a taxpayer and resident of state for at least five years prior to his appointment. Any commissioner may be removed by the governor if fully satisfied of his inefficiency, neglect of duty, or misconduct in office. All commissioners appointed prior to October 13, 1965, shall serve the term for which they were appointed. Commissioners appointed pursuant to this section shall be appointed for terms of six years. Upon the expiration of each of the foregoing terms of these commissioners a successor shall be appointed for a term of six years or until his successor is appointed and qualified which term of six years shall thereafter be the length of term of each member of the commission unless removed as above provided. The members of the commission shall receive as compensation for their services twenty-five dollars per day for the time spent in the performance of their official duties, and also their necessary traveling and other expenses incurred while actually engaged in the discharge of their official duties.]

**1. A transportation commission appointed by the governor, by and with the advice and consent of the senate, shall consist of six members appointed to six-year terms, except that the present members of the transportation commission shall serve for the remainder of their terms as follows: members whose terms otherwise expire December 1, 2003, shall serve with terms expiring July 1, 2004; a member whose term otherwise expires December 1, 2005, shall serve with a term expiring July 1, 2006; a member whose term otherwise expires December 1, 2007, shall serve with a term expiring July 1, 2008; and of the members whose terms otherwise expire**

December 13, 2007, one member shall serve with a term expiring July 1, 2006, and the other members shall serve with a term expiring July 1, 2008, as determined by the governor. The house and senate leadership, which shall mean the speaker of the house of representatives, the president pro tempore of the senate, and the minority floor leaders of the house and of the senate, from the same political party shall by party supply three candidates to the governor for selection as members of the commission. The governor shall select one candidate from each party. The candidates shall be appointed by July first in even-numbered years. In the event of a vacancy on the commission, the house and senate leadership of that political party of the vacating member shall submit three candidates for selection as a member to the commission to the governor within thirty days of the vacancy. The governor shall have fifteen days to select a new member of the commission. The new member of the commission shall serve only the remainder of the unexpired six-year term of the vacating member.

2. No more than one-half of the members of the transportation commission shall be of the same political party. The selection and removal of all employees of the department of transportation shall be without regard to political affiliation.

3. The present members of the transportation commission shall serve as members of the transportation commission for the remainder of the terms for which they were appointed, except as provided in subsection 2 of this section.

4. All references to the highway commission or the highways and transportation commission and the department of highways in the statutes shall mean the transportation commission and the department of transportation.

226.134. All projects funded by bonds authorized in section 226.133 and 226.137 shall be funded in conformity with the priorities established in the 1992 plan developed by the transportation department.

226.137. 1. The general assembly may authorize the highways and transportation commission to issue bonds or other evidence of indebtedness from fiscal year 2007 to fiscal year 2022. The principal amount of such bonds shall be no less than one hundred fifty million dollars nor greater than two hundred fifty million dollars in any one fiscal year. Net proceeds, after costs of issuance have been paid, from the issuance of the bonds shall be provided to the highways and transportation commission to pay for the cost of construction engineering and construction. The proceeds from the bonds shall not be used to pay for administrative expenses, including but not limited to planning and design expenses. Contracted final design shall not be considered an administrative expense, but shall not exceed seven percent of any project.

2. To obtain authorization for the issuance of bonds, the highways and transportation commission shall annually present to the general assembly, by the tenth legislative day, a proposed plan and an analysis demonstrating the feasibility and appropriateness thereof. The plan to issue bonds shall become effective no later than forty-five calendar days after the plan



proposed by the highways and transportation commission is submitted to a regular session of the general assembly, unless it is disapproved within forty-five calendar days of its submission to a regular session by a concurrent resolution introduced within fourteen calendar days of the submission of the plan to a regular session of the general assembly and adopted by a majority vote of the elected members of each house. If no concurrent resolution disapproving of the highway plan is introduced within fourteen calendar days of the submission of the plan to the legislature, then the plan shall become effective immediately. The presiding officer of each house in which a concurrent resolution disapproving of a plan to issue bonds has been introduced, unless the resolution has been previously accepted or rejected by that house, shall submit it to a vote of the membership not sooner than seven calendar days or later than fourteen calendar days after introduction of the concurrent resolution pertaining to the department of transportation plan. The presiding officer of the house passing a concurrent resolution disapproving of a plan to issue bonds shall immediately forward the bill to the other house and the presiding officer of that house shall submit it to a vote of the membership not sooner than seven calendar days or later than fourteen calendar days of its receipt from the other legislative body. The plan submitted by the highways and transportation commission shall not be subject to amendment by either chamber and may only be rejected in its entirety.

3. The highways and transportation commission shall offer such bonds at public sale or negotiated sale. The bonds shall be for a period of not less than ten years and not more than twenty years from their date of issue and shall bear interest at a rate or rates not exceeding the rate permitted by law.

4. The net proceeds of the sale or sales of any bonds issued pursuant to this section shall be paid into the state road fund to be expended for the purpose specified pursuant to section 226.220.

5. Bonds issued pursuant to this section shall be state road bonds as such term is used in section 30(b) of article IV of the Missouri Constitution, and as such, principal and interest payments on such bonds shall be made from the state road fund as provided in section 30(b) of article IV of the Missouri Constitution. Bonds issued pursuant to this section shall not be deemed to constitute a debt or liability of the state or a pledge of the full faith and credit of the state, and the principal and interest on such bonds shall be payable solely from the state road fund. Bonds issued pursuant to this section, the interest thereon, or any proceeds from such bonds shall be exempt from taxation in the state of Missouri for all purposes except for the state estate tax.

6. Bonds may be issued for the purpose of refunding, either at maturity or in advance of maturity, any bonds issued pursuant to this section. The net proceeds of such refunding bonds, after costs of issuance have been paid, may either be applied to the payment of the bonds being

refunded or deposited in trust and maintained in cash or investments for the retirement of the bonds being refunded, as shall be specified by the highways and transportation commission and the authorizing resolution or trust indenture securing such refunding bonds. The authorizing resolution or trust indenture securing the refunding bonds shall specify the amount and other terms of the refunding bonds and may provide that the refunding bonds shall have the same security for their payment as provided for the bonds being refunded. The refunding bonds shall be for a period of not less than ten years and not more than twenty years from their date of issue and shall bear interest at a rate or rates not exceeding the rate permitted by law. The principal amount of refunding bonds issued pursuant to this section shall not be counted toward the limit on the principal amount of bonds permitted pursuant to this section.

226.200. 1. There is hereby created a "State Highways and Transportation Department Fund" into which shall be paid or transferred all state revenue derived from highway users as an incident to their use or right to use the highways of the state, including all state license fees and taxes upon motor vehicles, trailers, and motor vehicle fuels, and upon, with respect to, or on the privilege of the manufacture, receipt, storage, distribution, sale or use thereof (excepting the sales tax on motor vehicles and trailers, and all property taxes), and all other revenue received or held for expenditure by or under the department of transportation or the state highways and transportation commission, except:

- (1) Money arising from the sale of bonds;
- (2) Money received from the United States government; or
- (3) Money received for some particular use or uses other than for the payment of principal and interest on outstanding state road bonds.

2. Subject to the limitations of subsection 3 of this section, from said fund shall be paid or credited the cost:

- (1) Of collection of all said state revenue derived from highway users as an incident to their use or right to use the highways of the state;
- (2) Of maintaining the state highways and transportation commission;
- (3) Of maintaining the state transportation department;
- (4) Of any workers' compensation for state transportation department employees;
- (5) Of the share of the transportation department in any retirement program for state employees, only as may be provided by law; and
- (6) Of administering and enforcing any state motor vehicle laws or traffic regulations.

3. [For all future fiscal years, the total amount of appropriations from the state highways and transportation department fund for all state offices and departments shall not exceed the total amount appropriated for such offices and departments from said fund for fiscal year 2001.] **There is hereby established a limitation on expenditures from the state highways and transportation department fund for the purposes specified in subdivisions (1) and (6) of subsection 2 of this section. The**

**purpose of this limitation is to ensure that adequate funding is available from the state highways and transportation department fund to support operation of the state highways and transportation commission and the department of transportation.**

**(1) The initial limit, which shall be in effect for fiscal year 2003, shall be equivalent to the total fiscal year 2001 state highways and transportation department fund appropriations for state offices and departments.**

**(2) For fiscal year 2004 and each fiscal year thereafter, the limit shall be determined as follows:**

**(a) The state revenues paid or transferred into the state highways and transportation department fund during the second preceding fiscal year shall be compared to the total paid or transferred into said fund during the third preceding fiscal year to determine the percentage by which the sum of the revenues and transfers to the fund increased or decreased; and**

**(b) If the sum of the revenues and transfers increased, the limit in effect during the preceding fiscal year shall be adjusted by the percentage increase; and**

**(c) If the sum of the revenues and transfers decreased, the limit shall remain the same as in the preceding fiscal year;**

**(3) Notwithstanding the provisions of subdivision (2) of this subsection, provided an increase in funding for transportation purposes is approved by the ninety-first general assembly, second regular session and also approved by the voters, the expenditure limit in effect for fiscal year 2004 shall be determined as follows:**

**(a) The state revenues paid or transferred into the state highways and transportation department fund during fiscal year 2004 shall be compared to the total paid or transferred into said fund during fiscal year 2003 to determine the percentage by which the sum of the revenues and transfers to the fund increased or decreased; and**

**(b) If the sum of the revenues and transfers increased, the limit in effect during the preceding fiscal year shall be adjusted by the percentage increase; and**

**(c) If the sum of the revenues and transfers decreased, the limit shall remain the same as in the preceding fiscal year.**

**(4) In the event that expenditures from the state highways and transportation department fund exceed the limit established by this section, the commissioner of administration shall transfer said amount from the general revenue fund to the state road fund. Said transfer shall occur in the fiscal year immediately following the fiscal year in which the limitation was exceeded.**

4. The provisions of subsection 3 of this section shall not apply to appropriations from the state highways and transportation department fund to the highways and transportation commission and the state transportation department or to appropriations to the office of administration for department of transportation employee fringe benefits and OASDHI payments, or to appropriations to [the department

of revenue for motor vehicle fuel tax refunds under chapter 142, RSMo, or to appropriations to the department of revenue for refunds or overpayments or erroneous payments from the state highways and transportation department fund] **any department for refunds, fringe benefits, and OASDHI payments.**

5. All interest earned upon the state highways and transportation department fund shall be deposited in and to the credit of such fund.

6. Any balance remaining in said fund after payment of said costs shall be transferred to the state road fund.

7. Notwithstanding the provisions of subsection 2 of this section to the contrary, any funds raised as a result of increased taxation pursuant to sections 142.025 and 142.372, RSMo, after April 1, 1992, shall not be used for administrative purposes or administrative expenses of the transportation department.

226.540. Notwithstanding any other provisions of sections 226.500 to 226.600, outdoor advertising shall be permitted within six hundred and sixty feet of the nearest edge of the right-of-way of [any interstate or primary highway] **highways located on the interstate, federal-aid primary system as it existed on June 1, 1991, or the national highway system as amended** in areas zoned industrial, commercial or the like and in unzoned commercial and industrial areas as defined in this section, subject to the following regulations which are consistent with customary use in this state:

(1) Lighting:

(a) No revolving or rotating beam or beacon of light that simulates any emergency light or device shall be permitted as part of any sign. No flashing, intermittent, or moving light or lights will be permitted except scoreboards and other illuminated signs designating public service information, such as time, date, or temperature, or similar information, will be allowed; **tri-vision, projection and other changeable message signs shall be allowed subject to Missouri highway and transportation commission regulations;**

(b) External lighting, such as floodlights, thin line and gooseneck reflectors are permitted, provided the light source is directed upon the face of the sign and is effectively shielded so as to prevent beams or rays of light from being directed into any portion of the main traveled way of the federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System and the lights are not of such intensity so as to cause glare, impair the vision of the driver of a motor vehicle, or otherwise interfere with a driver's operation of a motor vehicle;

(c) No sign shall be so illuminated that it interferes with the effectiveness of, or obscures, an official traffic sign, device, or signal;

(2) Size of signs:

(a) The maximum area for any one sign shall be eight hundred square feet with a maximum height of thirty feet and a maximum length of seventy-two feet, inclusive of border and trim but excluding the base

or apron, supports, and other structural members. The area shall be measured as established **herein and** in rules promulgated by the commission. In determining the size of a **conforming or nonconforming** sign structure, temporary cutouts and extensions installed for the length of a specific display contract shall not be [included in calculating] **considered a substantial increase to** the size of the permanent display; provided the actual square footage of such temporary cutouts or extensions may not exceed thirty-three percent of the permanent display area. **Signs erected in accordance with the provisions of sections 226.500 to 226.600 prior to the effective date of this provision which fail to meet the requirements of this provision shall be deemed legal nonconforming as defined herein;**

(b) The maximum size limitations shall apply to each side of a sign structure, and signs may be placed back to back, double faced, or in V-type construction with not more than two displays to each facing, but such sign structure shall be considered as one sign;

(c) After August 28, 1999, no new sign structure shall be erected in which two or more displays are stacked one above the other. Stacked structures existing on or before August 28, 1999, in accordance with sections 226.500 to 226.600 shall [not] be deemed **legal nonconforming** [for failure to meet the requirements of this section until such sign's structure is modified, repaired, replaced or rebuilt] **and may be maintained in accordance with the provisions sections of 226.500 to 226.600.** Structures displaying more than one display on a horizontal basis shall be allowed, provided that total display areas do not exceed the maximum allowed square footage for a sign structure pursuant to the provisions of paragraph (a) of subdivision (2) of this section;

(3) Spacing of signs:

(a) **On all** interstate highways, [and] freeways [on the] **and nonfreeway** federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System:

a. No sign structure shall be erected within [five hundred] **one thousand four hundred** feet of an existing sign on the same side of the highway;

b. Outside of incorporated municipalities, no structure may be located adjacent to or within five hundred feet of an interchange, intersection at grade, or safety rest area. Such five hundred feet shall be measured from the beginning or ending of the pavement widening at the exit from or entrance to the main traveled way. For purpose of this subparagraph, the term "incorporated municipalities" shall include "urban areas", except that such "urban areas" shall not be considered "incorporated municipalities" if it is finally determined that such would have the effect of making Missouri be in noncompliance with the requirements of Title 23, United States Code, Section 131;

(b) [Nonfreeway federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System:

a. Outside incorporated municipalities, no structure shall be erected within five hundred feet of an existing sign on the same side of the highway. Sign structures existing prior to August 28, 1999, which complied with the requirements of this section when erected shall not be deemed nonconforming for failure to comply with the spacing provisions of this section until such sign's structure is modified, repaired, replaced or rebuilt;

b. Within incorporated municipalities, no structure shall be erected within five hundred feet of an existing sign. Sign structures existing prior to August 28, 1999, which complied with the requirements of this section when erected shall not be deemed nonconforming for failure to comply with the spacing provisions of this section until such sign's structure is modified, repaired, replaced or rebuilt;

(c) The spacing between structure provisions of subdivision (3) of this section do not apply to signs which are separated by buildings, natural surroundings, or other obstructions in such manner that only one sign facing located within such distance is visible at any one time. Directional or other official signs or those advertising the sale or lease of the property on which they are located, or those which advertise activities on the property on which they are located, including products sold, shall not be counted, nor shall measurements be made from them for the purpose of compliance with spacing provisions;

[(d)] (c) No sign shall be located in such manner as to obstruct or otherwise physically interfere with the effectiveness of an official traffic sign, signal, or device or obstruct or physically interfere with a motor vehicle operator's view of approaching, merging, or intersecting traffic;

[(e)] (d) The measurements in this section shall be the minimum distances between outdoor advertising sign structures measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway and shall apply only to outdoor advertising sign structures located on the same side of the highway involved;

(4) As used in this section, the words "unzoned commercial and industrial land" shall be defined as follows: that area not zoned by state or local law or ordinance and on which there is located one or more permanent structures used for a commercial business or industrial activity or on which a commercial or industrial activity is actually conducted together with the area along the highway extending outwardly [six hundred] **seven hundred fifty** feet from and beyond the edge of such activity. All measurements shall be from the outer edges of the regularly used improvements, buildings, parking lots, landscaped, storage or processing areas of the commercial or industrial activity and along and parallel to the edge of the pavement of the highway. [On nonfreeway federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System, where there is an unzoned commercial or industrial area on one side of the road as described in this section, the term "unzoned commercial or industrial land" shall also include those lands directly opposite on the other side of the highway to the extent of the same dimensions.] Unzoned land shall not include:

(a) Land on the opposite side of [an interstate or freeway primary] **the** highway from an unzoned

commercial or industrial area as defined in this section **and located adjacent to highways located on the interstate, federal-aid primary system as it existed on June 1, 1991, or the national highway system as amended, unless the opposite side of the highway qualifies as a separate unzoned commercial or industrial area; or**

(b) Land zoned by a state or local law, regulation, or ordinance;

[(c) Land on the opposite side of a nonfreeway primary highway which is determined by the proper state authority to be a scenic area;]

(5) "Commercial or industrial activities" as used in this section means those which are generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following shall be considered commercial or industrial:

(a) Outdoor advertising structures;

(b) Agricultural, forestry, ranching, grazing, farming, and related activities, including seasonal roadside fresh produce stands;

(c) Transient or temporary activities;

(d) Activities more than six hundred sixty feet from the nearest edge of the right-of-way or not visible from the main traveled way;

(e) Activities conducted in a building principally used as a residence;

(f) Railroad tracks and minor sidings;

(6) The words "unzoned commercial or industrial land" shall also include all areas not specified in this section which constitute an "unzoned commercial or industrial area" within the meaning of the present Section 131 of Title 23 of the United States Code, or as such statute may be amended. As used in this section, the words "zoned commercial or industrial area" shall refer to those areas zoned commercial or industrial by the duly constituted zoning authority of a municipality, county, or other lawfully established political subdivision of the state, or by the state **and which is within seven hundred fifty feet of one or more permanent commercial or industrial activities.** [Unzoned] Commercial or industrial activities as used in this section are limited to those activities:

(a) In which the primary use of the property is commercial or industrial in nature;

(b) Which are clearly visible from the highway and recognizable as a commercial business;

(c) Which are permanent as opposed to temporary or transitory and of a nature that would customarily be restricted to commercial or industrial zoning in areas comprehensively zoned; and

(d) In determining whether the primary use of the property is commercial or industrial pursuant to paragraph (a) of this subdivision, the state highways and transportation commission shall consider the following factors:

a. The presence of a permanent and substantial building;

b. The existence of utilities and [required] **local** business licenses, if any, for the commercial activity;

c. On-premise signs or other identification;

d. [Communication with the business owner that can be accomplished at regular intervals either in person, by telephone, by fax machine, by electronic mail or by some other business means] **The presence of an owner or employee on the premises for at least 20 hours per week;**

(7) In zoned commercial and industrial areas, whenever a state, county or municipal zoning authority has adopted laws or ordinances which include regulations with respect to the size, lighting and spacing of signs, which regulations are consistent with the intent of sections 226.500 to 226.600 and with customary use, then from and after the effective date of such regulations, and so long as they shall continue in effect, the provisions of this section shall not apply to the erection of signs in such areas. Notwithstanding any other provisions of this section, after August 28, 1992, with respect to any outdoor advertising which is regulated by the provisions of subdivision (1), (3) or (4) of section 226.520 or subsection 1 of section 226.527:

(a) No county or municipality shall issue a permit to allow a regulated sign to be newly erected without a permit issued by the state highways and transportation commission;

(b) A county or municipality may charge a reasonable one-time permit or inspection fee to assure compliance with local wind load and electrical requirements when the sign is first erected, but a county or municipality may not charge a permit or inspection fee for such sign after such initial fee. Changing the display face or performing routine maintenance shall not be considered as erecting a new sign;

(8) The state highways and transportation commission on behalf of the state of Missouri, may seek agreement with the Secretary of Transportation of the United States under Section 131 of Title 23, United States Code, as amended, that sections 226.500 to 226.600 are in conformance with that Section 131 and provides effective control of outdoor advertising signs as set forth therein. If such agreement cannot be reached and the penalties under subsection (b) of Section 131 are invoked, the attorney general of this state shall institute proceedings described in subsection (1) of that Section 131.

226.550. 1. No outdoor advertising which is regulated by subdivision (1), (3) or (4) of section 226.520 or subsection 1 of section 226.527 shall be erected or maintained on or after August 28, 1992, without a one-time permanent permit issued by the state highways and transportation commission. Application for permits shall be made to the state highways and transportation commission on forms furnished by the commission and shall be accompanied by a permit fee of [twenty-eight dollars and fifty cents] **two hundred dollars** for all signs; except that, tax-exempt religious organizations as defined in subdivision (11) of section 313.005, RSMo, service organizations as defined in subdivision (12) of section 313.005, RSMo, veterans' organizations as defined in subdivision (14) of section 313.005, RSMo, and fraternal organizations as defined in subdivision (8) of section 313.005, RSMo, shall be granted a permit for signs less than seventy-six square feet without payment of the fee. In the event a permit holder fails to erect a sign structure within twenty-four months of issuance, said permit shall expire and a new permit must be obtained prior to any construction.



2. No outdoor advertising which is regulated by subdivision (1), (3) or (4) of section 226.520 or subsection 1 of section 226.527 which was erected prior to August 28, 1992, shall be maintained without a one-time permanent permit for outdoor advertising issued by the state highways and transportation commission. If a one-time permanent permit was issued by the state highways and transportation commission after March 30, 1972, and before August 28, 1992, it is not necessary for a new permit to be issued. If a one-time permanent permit was not issued for a lawfully erected and lawfully existing sign by the state highways and transportation commission after March 30, 1972, and before August 28, 1992, a one-time permanent permit shall be issued by the commission for each sign which is lawfully in existence on the day prior to August 28, 1992, upon application and payment of a permit fee of [twenty-eight dollars and fifty cents] **two hundred dollars**. All applications and fees due pursuant to this subsection shall be submitted before December 31, 1992.

3. For purposes of sections 226.500 to 226.600, the terminology "structure lawfully in existence" or "lawfully existing" sign or outdoor advertising shall, nevertheless, include the following signs unless the signs violate the provisions of subdivisions (3) to (7) of subsection 1 of section 226.580:

(1) All signs erected prior to January 1, 1968;

(2) All signs erected before March 30, 1972, but on or after January 1, 1968, which would otherwise be lawful but for the failure to have a permit for such signs prior to March 30, 1972, except that any sign or structure which was not in compliance with sizing, spacing, lighting, or location requirements of sections 226.500 to 226.600 as the sections appeared in the revised statutes of Missouri 1969, wheresoever located, shall not be considered a lawfully existing sign or structure;

(3) All signs erected after March 30, 1972, which are in conformity with sections 226.500 to 226.600;

**(4) All signs erected in compliance with sections 226.500 to 226.600, RSMo, prior to the effective date of this act.**

4. On or after August 28, 1992, the state highways and transportation commission may, in addition to the fees authorized by subsections 1 and 2 of this section, collect a biennial inspection fee every two years after a state permit has been issued. Biennial inspection fees due after August 28, [1992] **2002, and prior to August 28, 2003**, shall be [twenty-eight dollars and fifty cents] **fifty dollars**. **Biennial inspection fees due on or after August 28, 2003, shall be seventy-five dollars. Biennial inspection fees due on or after August 28, 2004, shall be one hundred dollars**; except that, tax-exempt religious organizations as defined in subdivision (11) of section 313.005, RSMo, service organizations as defined in subdivision (12) of section 313.005, RSMo, veterans' organizations as defined in subdivision (14) of section 313.005, RSMo, and fraternal organizations as defined in subdivision (8) of section 313.005, RSMo, shall not be required to pay such fee.

5. [In order to effect collection from a sign owner of delinquent and unpaid biennial inspection fees which are payable pursuant to this section, or delinquent removal costs pursuant to section 226.580, the

state highways and transportation commission may require any delinquent fees to be paid before a permit is issued to the delinquent sign owner for any new sign.] **In order to effect the more efficient collection of biennial inspection fees, the state highways and transportation commission is encouraged to adopt a renewal system in which all permits in a particular county are renewed in the same month. In conjunction with the conversion to this renewal system, the state highways and transportation commission is specifically authorized to prorate renewal fees based on changes in renewal dates.**

6. Sign owners or owners of the land on which signs are located must apply to the state highways and transportation commission for biennial inspection and submit any fees as required by this section on or before December 31, 1992. For a permitted sign which does not have a permit, a permit shall be issued at the time of the next biennial inspection.

7. The state highways and transportation commission shall deposit all fees received for outdoor advertising permits and inspection fees in the state road fund, keeping a separate record of such fees, and the same may be expended by the commission in the administration of sections 226.500 to 226.600.

226.573. The state highways and transportation commission is authorized to adopt administrative rules regulating the use of new technology in outdoor advertising as allowed under federal regulations for federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated pursuant to the authority delegated in this section shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after [August 28, 1999,] **the effective date of this section** shall be invalid and void.

226.580. 1. The following outdoor advertising within six hundred sixty feet of the right-of-way of interstate or primary highways is deemed unlawful and shall be subject to removal:

(1) Signs erected after March 30, 1972, contrary to the provisions of sections 226.500 to 226.600 and signs erected on or after January 1, 1968, but before March 30, 1972, contrary to the sizing, spacing, lighting, or location provisions of sections 226.500 to 226.600 as they appeared in the revised statutes of Missouri 1969; or

(2) Signs for which a permit is not obtained or a biennial inspection fee is [not paid as prescribed in sections 226.500 to 226.600] **more than twelve months past due**; or

(3) Signs which are obsolete; (Signs shall not be considered obsolete solely because they temporarily do not carry an advertising message.) or

(4) Signs that are not in good repair; or

(5) Signs not securely affixed to a substantial structure; or

(6) Signs which attempt or appear to attempt to regulate, warn, or direct the movement of traffic or which interfere with, imitate, or resemble any official traffic sign, signal, or device; or

(7) Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.

2. Signs erected after August 13, 1976, beyond six hundred sixty feet of the right-of-way outside of urban areas, visible from the main traveled way of the interstate or primary system and erected with the purpose of their message being read from such traveled way, except those signs described in subdivisions (1) and (2) of section 226.520 are deemed unlawful and shall be subject to removal.

3. If a sign is deemed to be unlawful for any of the reasons set out in subsections 1 [and 2] **through 7** of this section, the state highways and transportation commission shall give notice either by certified mail or by personal service to the owner or occupant of the land on which advertising believed to be unlawful is located and the owner of the outdoor advertising structure. Such notice shall specify the basis for the alleged unlawfulness, shall specify the remedial action which is required to correct the unlawfulness and shall advise that a failure to take the remedial action within [thirty] **sixty** days will result in the sign being removed. Within [thirty] **sixty** days after receipt of the notice as to him, the owner of the land or of the structure may remove the sign or may take the remedial action specified or may file an action for administrative review pursuant to the provisions of sections 536.067 to 536.090, RSMo, to review the action of the state highways and transportation commission, or he may proceed under the provisions of section 536.150, RSMo, as if the act of the highways and transportation commission was one not subject to administrative review. Notwithstanding any other provisions of sections 226.500 to 226.600, no outdoor advertising structure erected prior to August 28, 1992, defined as a "structure lawfully in existence" or "lawfully existing", by subdivision (1), (2) or (3) of subsection 2 of section 226.550, shall be removed for failure to have a permit until a notice, as provided in this section, has been issued which shall specify failure to obtain a permit or pay a biennial inspection fee as the basis for alleged unlawfulness, and shall advise that failure to take the remedial action of applying for a permit or paying the inspection fee within [thirty] **sixty** days will result in the sign being removed. **Signs for which biennial inspection fees are delinquent shall not be removed unless the fees are more than twelve months past due and actual notice of the delinquency has been provided to the sign owner.** Upon application made within the [thirty-day] **sixty-day** period as provided in this section, and accompanied by the fee prescribed by section 226.550, together with any inspection fees that would have been payable if a permit had been timely issued, the state highways and transportation commission shall issue a one-time permanent permit for such sign. Such signs with respect to which permits are so issued are hereby determined by the state of Missouri to have been lawfully erected within the meaning of "lawfully erected" as that term is used in Title 23, United States Code, section 131(g), as amended, and shall only be removed upon payment of just compensation, except that the issuance of permits shall not entitle the owners of such signs to compensation for their removal if it is finally determined that such signs are not "lawfully erected" as that term is used in section

131(g) of Title 23 of the United States Code.

4. If **actual** notice as provided in this section is given and neither the remedial action specified is taken nor an action for review is filed, or if an action for review is filed and is finally adjudicated in favor of the state highways and transportation commission, the state highways and transportation commission shall have authority to immediately remove the unlawful outdoor advertising. The owner of the structure shall be liable for the costs of such removal. The commission shall incur no liability for causing this removal, except for damage caused by negligence of the commission, its agents or employees.

5. If notice as provided in this section is given and an action for review is filed under the provisions of section 536.150, RSMo, or if administrative review pursuant to the provisions of sections 536.067 to 536.090, RSMo, is filed and the state highways and transportation commission enters its final decision and order to remove the outdoor advertising structure, the advertising message contained on the structure shall be removed or concealed by the owner of the structure, at the owner's expense, until the action for judicial review is finally adjudicated. If the owner of the structure refuses or fails to remove or conceal the advertising message, the commission may remove or conceal the advertising message and the owner of the structure shall be liable for the costs of such removal or concealment. The commission shall incur no liability for causing the removal or concealment of the advertising message while an action for review is pending, except if the owner finally prevails in its action for judicial review, the commission will compensate the owner at the rate the owner is actually receiving income from the advertiser pursuant to written lease from the time the message is removed until the judicial review is final.

6. Any signs advertising tourist oriented type business will be the last to be removed.

7. Any signs prohibited by section 226.527 which were lawfully erected prior to August 13, 1976, shall be removed pursuant to section 226.570.

8. The transportation department shall reimburse to the lawful owners of any said nonconforming signs that are now in existence as defined in sections 226.540, 226.550, 226.580 and 226.585, said compensation calculated and/or based on a fair market value and not mere replacement cost.

226.585. **1.** The state transportation department may cut and trim any vegetation on the highway right-of-way which interferes with the effectiveness of or obscures a lawfully erected billboard, or the highways and transportation commission shall promulgate reasonable rules and regulations to permit the cutting and trimming of such vegetation on the highway or right-of-way by the owner of such billboard. **The right to a vegetation permit by an outdoor advertising permit holder shall be issued in accordance with the rules and regulations promulgated by the highways and transportation commission.** Such rules and regulations shall be promulgated within twelve months after August 28, 1992, or the commission shall suspend the collection of the biennial inspection fees prescribed by section 226.550 until such rules are promulgated, and such rules may include authority to charge a reasonable fee for such [permission] **permit**. This section shall not apply if its implementation would have the effect of making Missouri be in noncompliance with requirements of Title 23, United States Code, section 131.

226.670. No person shall operate, establish, or maintain a junkyard, any portion of which is within one thousand feet of the nearest edge of the right-of-way of any interstate or primary highway, without obtaining a license from the state highways and transportation commission of Missouri. The state highways and transportation commission shall have authority to issue a license for the establishment, operation, and maintenance of junkyards within the limits established in the preceding section and shall charge [an annual] **a permit** fee of [ten] **fifty** dollars, payable in advance. All licenses shall expire on the first day of January following the date of issue and the commission may charge a pro rata part of the annual license fee for portions of a year. Licenses shall be renewed from year to year on payment of [the license fee] **a twenty-five dollar renewal fee**. Such fee shall be deposited in the highway fund and be expended by the state highways and transportation commission in the administration of provisions of sections 226.650 to 226.720.

**226.730. If a junkyard violates any provision of sections 226.650 to 226.720, the state highways and transportation commission is authorized to give notice of violation either by certified mail or by personal service to the owner or occupant of the land on which the junkyard is located and to the owner of the junkyard including any tenant interests. The notice of violation shall specify the reason for the violation and shall specify the remedial action which is required to correct the violation. Remedial action may include removal of the junkyard. The notice of violation shall also advise that a failure to take the remedial action within thirty days of receipt of the notice of violation or may request administrative review by the state highways and transportation commission of the notice of violation. Any administrative review shall be pursuant to chapter 536. The state highways and transportation commission is authorized to delegate the decision of administrative review to the hearing officer or to an appeals board. In the event of such delegation, the decision of the hearing officer or appeals board in the administrative review shall be considered the decision of the state highways and transportation commission. Any decision may be judicially reviewed pursuant to chapter 536. The state highways and transportation commission is authorized to remove or abate the junkyard at the cost of the owner of such junkyard if the specified remedial action is not taken and no timely request for administrative review is made or if any decision on administrative review is finally adjudicated in favor of the state highways and transportation commission. The commission shall incur no liability for causing the removal or abatement of the junkyard except for damage caused by the negligence of the commission, its agents, or employees.**

227.100. 1. All contracts for the construction of said work shall be let to the lowest responsible bidder or bidders after notice and publication of an advertisement in a newspaper published in the county where the work is to be done, and in such other publications as the commission may determine[; provided, that in all cases where the project advertised shall be for the construction of more than ten miles of road, such advertisement shall provide for bids on sections of said road not to exceed ten miles, as well as on the

project as a whole, and such contract shall then be let so as to provide for the most economical construction of said project], **provided, that all contracts for the construction of concrete-surfaced state highways shall be let as provided herein in accordance with the lowest bid price upon the acceptance of alternate bids submitted pursuant to plans and specifications for alternate construction by portland cement concrete and asphaltic concrete of comparable design.**

2. Each bid shall be accompanied by a certified check or a cashier's check or a bid bond, guaranteed by a surety company authorized by the director of the department of insurance to conduct surety business in the state of Missouri, equal to five percent of the bid, which certified check, cashier's check, or bid bond shall be deposited with the commissioner as a guaranty and forfeited to the state treasurer to the credit of the state road fund in the event the successful bidder fails to comply with the terms of the proposal, and return to the successful bidder on execution and delivery of the performance bond provided for in subsection 4. The checks of the unsuccessful bidders shall be returned to them in accordance with the terms of the proposal.

3. All notices of the letting of contracts under this section shall state the time and place when and where bids will be received and opened, and all bids shall be sealed and opened only at the time and place mentioned in such notice and in the presence of some member of the commission or some person named by the commission for such purpose.

4. The successful bidders for the construction of said work shall enter into contracts furnished and prescribed by the commission and shall give good and sufficient bond, in a sum equal to the contract price, to the state of Missouri, with sureties approved by the commission and to ensure the proper and prompt completion of said work in accordance with the provisions of said contracts, and plans and specifications; provided, that if, in the opinion of the majority of the members of the commission, the lowest bid or bids for the construction of any of the roads, or parts of roads, herein authorized to be constructed, shall be excessive, then, and in that event, said commission shall have the right, and it is hereby empowered and authorized to reject any or all bids, and to construct, under its own direction and supervision, all of such roads and bridges, or any part thereof.

**227.107. 1. Notwithstanding any provision of section 227.100 to the contrary, as an alternative to the requirements and procedures specified by sections 227.040 to 227.100, the state highways and transportation commission is authorized to enter into one highway design-build project contract. The design-build pilot project authorized by this section shall be selected by the highways and transportation commission from projects approved by the East-West Gateway Coordinating Council and included in the statewide transportation improvement program approved by the commission. Authority to enter into design-build projects granted by this section shall expire on July 1, 2012, unless extended by statute. Any design-build pilot project contract entered into before July 1, 2012, may be continued to its completion through the design-build method of construction.**

2. For the purpose of this section a "design-builder" is defined as an individual, corporation, partnership, joint venture or other entity, including combinations of such entities making a proposal to perform or performing a design-build highway project contract.

3. For the purpose of this section, "design-build highway project contract" is defined as the procurement of all materials and services necessary for the design, construction, reconstruction or improvement of a state highway project in a single contract with a design-builder capable of providing the necessary materials and services.

4. For the purpose of this section, "highway project" is defined as the design, construction, reconstruction or improvement of highways or bridges under contract with the state highways and transportation commission, which is funded by state, federal or local funds or any combination of such funds.

5. In using a design-build highway project contract, the commission shall establish a written procedure by rule for prequalifying design-builders before such design-builders will be allowed to make a proposal on the project.

6. In any design-build highway project contract, whether involving state or federal funds, the commission shall require that each person submitting a request for qualifications provide a detailed disadvantaged business enterprise participation plan. The plan shall provide information describing the experience of the person in meeting disadvantaged business enterprise participation goals, how the person will meet the department of transportation's disadvantaged business enterprise participation goal and such other qualifications that the commission considers to be in the best interest of the state.

7. The commission is authorized to issue a request for proposals to a maximum of five design-builders prequalified in accordance with subsection 5 of this section.

8. The design-builder awarded the contract for such project shall perform work in actual construction of the project amounting to not less than fifty percent of construction costs. The commission may require approval of any person performing subcontract work on the design-build highway project.

9. The bid bond and performance bond requirements of section 227.100 and the payment bond requirements of section 107.170, RSMo, shall apply to the design-build highway project.

10. The commission is authorized to prescribe the form of the contracts for the work.

11. The commission is empowered to make all final decisions concerning the performance of the work under the design-build highway project contract, including claims for additional time and compensation.

12. The provisions of sections 8.285 to 8.291, RSMo, shall not apply to the procurement of architectural, engineering or land surveying services for the design-build highway project, except that any person providing architectural, engineering or land surveying services for the

design-builder on the design-build highway project must be licensed in Missouri to provide such services.

13. The commission shall pay a reasonable stipend to prequalified responsive design-builders who submit a proposal, but are not awarded the design-build highway project.

14. The commission shall comply with the provisions of any act of congress or any regulations of any federal administrative agency which provides and authorizes the use of federal funds for highway projects using the design-build process.

15. The commission shall promulgate administrative rules to implement this section or to secure federal funds. Such rules shall be published for comment in the Missouri Register and shall include prequalification criteria, the make-up of the prequalification review team, specifications for the design criteria package, the method of advertising, receiving and evaluating proposals from design-builders, the criteria for awarding the design-build highway project based on the design criteria package and a separate proposal stating the cost of construction, and other methods, procedures and criteria necessary to administer this section.

16. The commission shall make a status report to the members of the general assembly and the governor following the award of the design-build project, as an individual component of the annual report submitted by the commission to the joint transportation oversight committee in accordance with the provisions of section 21.795, RSMo. The annual report prior to advertisement of the design-build highway project contracts shall state the goals of the project in reducing costs and/or the time of completion for the project in comparison to the design-bid-build method of construction and objective measurements to be utilized in determining achievement of such goals. Subsequent annual reports shall include: the time estimated for design and construction of different phases or segments of the project and the actual time required to complete such work during the period; the amount of each progress payment to the design-builder during the period and the percentage and a description of the portion of the project completed regarding such payment; the number and a description of design change orders issued during the period and the cost of each such change order; upon substantial and final completion, the total cost of the design-build highway project with a breakdown of costs for design and construction; and such other measurements as specified by rule. The annual report immediately after final completion of the project shall state an assessment of the advantages and disadvantages of the design-build method of contracting for highway and bridge projects in comparison to the design-bid-build method of contracting and an assessment of whether the goals of the project in reducing costs and/or the time of completion of the project were met.

17. The commission shall give public notice of a request for qualifications in at least two public newspapers that are distributed wholly or in part in this state and at least one construction industry trade publication that is distributed nationally.



**18. The commission shall publish its cost estimates of the design-build highway project award and the desired project completion date along with its public notice requesting qualifications of proposers for the design-build project.**

**19. If the commission fails to receive at least two responsive submissions from design-builders considered qualified, submissions shall not be opened and it shall readvertise the project.**

227.040. The engineer shall proceed to cause surveys to be made of the state highway system as designated in section 227.020, and to prepare detail plans and specifications for each part thereof as soon as practicable; provided, however, that wherever surveys have heretofore been made, it shall be the duty of the engineer, when practicable, to adopt and utilize such surveys, together with plans and specifications if any have been made by the transportation department; **provided, that all plans and specifications for concrete-surfaced roadway shall include provisions for alternate construction by portland cement concrete and asphaltic concrete of comparable design.**

227.050. The engineer shall, as soon as practicable, submit to the commission in writing [his] recommendations as to detail plans, width of right-of-way and surfaced roadway and type and character of construction for each county, and at the same time furnish a copy thereof to the county clerk for public information. The commission may approve, disapprove, modify or amend the proposals so recommended, [and the] **provided that all proposals approved for concrete-surfaced roadway shall include provisions for alternate construction by portland cement concrete and asphaltic concrete of comparable design.** The action of the commission thereon shall be the action of the department on such subject, and shall not be modified or disturbed except by subsequent action of the commission.

227.060. The commission shall determine the width of the right-of-way and of the surface roadway of state highways and shall also determine the type and character of construction. **Every determination of the type and character of construction for concrete-surfaced roadway shall make provision for alternate construction by portland cement concrete and asphaltic concrete of comparable design.** In making decision as to widths, types and character of construction, there shall be taken into consideration the probable volume and weight of intercounty and intracounty vehicular traffic over such state highways, the density of population and the character of the territory through which such state highways are to be constructed. Durability and low maintenance cost shall be considered in connection with the probable volume and weight of such traffic; provided, that in the construction of state roads, no width of less than twelve feet of hard surface shall be considered.

**227.108. In any construction contract, whether involving state or federal funds, the highways and transportation commission shall require that each person submitting a request for qualifications provide a detailed disadvantaged business enterprise participation plan. The plan shall provide information describing the experience of the person in meeting disadvantaged business enterprise participation goals, how the person will meet the department of**

transportation's disadvantaged business enterprise participation goal and such other qualifications that the commission considers to be in the best interest of the state.

234.032. 1. The general assembly may annually appropriate up to one million dollars from the state revenue fund to fund a project to upgrade nonstate highway system bridges. Moneys shall be appropriated to the department of transportation, which shall administer the project. Moneys appropriated for this project shall be kept separate from all other funds of the department and shall be expended for the purposes specified in this section and for no other purpose. The department shall establish procedures to ensure accountability for the project funds, and shall require an annual report from the university and will provide such information to the governor and the general assembly as required in the annual report.

2. The department shall establish appropriate procedures, in accordance with the purposes of this section for selection of project bridges. The department shall utilize one of the innovation centers authorized by section 348.271, RSMo, as the contracting organization for this project.

3. Moneys from the project funds shall be used for the analysis and improvement of existing nonstate highway system bridges. Bridges that are currently under the responsibility for repair or maintenance by the department of transportation shall not be eligible for this project.

4. The project shall utilize the center for infrastructure engineering studies at the University of Missouri-Rolla for selection of the applicable bridges that can be improved and the lifespan extended by use of technology that has been developed and tested. The selection shall be approved by the department of transportation. The selection of bridges may consider the following criteria:

(1) Those bridges whose usage has been seriously hampered by load posting;  
(2) Those bridges that have been approved by the local authority to be included in this project;

(3) Those bridges that restoration can provide the greatest local economic impact; and  
(4) Those bridges that, combined together, provide the best overall impact on the state.

5. The center for infrastructure engineering studies at the University of Missouri-Rolla shall create and lead an industry consortium to perform the structural analysis and technology application required for the improvement of the selected bridges, create the required technical data, and provide technology transfer to local communities.

6. The University of Missouri-Rolla shall match every two dollars appropriated with this project pursuant to this section with one dollar from its research funds. Research funding for this project may come from:

(1) Local county, city, or townships;  
(2) Transportation districts;

**(3) Federal government; and**

**(4) Private contributions.**

**7. State-approved moneys in the projects funds shall in no event be used to defray costs normally attributed to institutional overhead. The chargeability of any disputed item shall be determined by the department, and decisions of the department with respect to selection of applied projects shall be final.**

**8. Reasonable and necessary administrative costs for the solicitation and evaluation of projects proposals, and for the preparation of reports concerning the project funds, shall be chargeable to the project, subject to the approval of the department.**

301.129. There is established in this section an advisory committee for the department of revenue, which shall exist solely to develop uniform designs and common colors for motor vehicle license plates issued under this chapter and to determine appropriate license plate parameters for all license plates issued [under] **pursuant to** this chapter. The advisory committee may adopt more than one type of design and color scheme for license plates issued [under] **pursuant to** this chapter; however, each license plate of a distinct type shall be uniform in design and color scheme with all other license plates of that distinct type. The specifications for the fully reflective material used for the plates, as required by section 301.130, shall be determined by the committee. Such plates shall meet any specific requirements prescribed in this chapter. The advisory committee shall consist of the director of revenue, the superintendent of the highway patrol, the correctional enterprises administrator, one person appointed by the governor, one state senator appointed by the president pro tem of the senate and one state representative appointed by the speaker of the house of representatives. Prior to April 1, [1996] **2003**, the committee [shall] **may** meet, select a chairman from among their members, and develop uniform design and license plate parameters for the motor vehicle license plates issued [under] **pursuant to** this chapter **with particular emphasis on public safety**. Prior to determining the final design of the plates, the committee shall hold at least three public meetings in different areas of the state to invite public input on the final design. Members of the committee shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties under this section out of funds appropriated for that purpose. The committee shall direct the director of revenue to implement its final design of the uniform motor vehicle license plates and any specific parameters for all license plates developed by the committee not later than April 1, [1996] **2003**. The committee shall be dissolved upon completion of its duties [under] **pursuant to** this section.

302.720. 1. Except when operating under an instruction permit as described in this section, no person may drive a commercial motor vehicle unless the person has been issued a commercial driver's license with applicable endorsements valid for the type of vehicle being operated as specified in sections 302.700 to 302.780. A commercial driver's instruction permit shall allow the holder of a valid license to operate a commercial motor vehicle when accompanied by the holder of a commercial driver's license valid for the vehicle being operated and who occupies a seat beside the individual, or reasonably near the

individual in the case of buses, for the purpose of giving instruction in driving the commercial motor vehicle. A commercial driver's instruction permit shall be valid for the vehicle being operated for a period of not more than six months, and shall not be issued until the permit holder has met all other requirements of sections 302.700 to 302.780, except for the driving test. A permit holder, unless otherwise disqualified, may be granted one six-month renewal within a one-year period. The fee for such permit or renewal shall be five dollars. In the alternative, a commercial driver's instruction permit shall be issued for a thirty-day period to allow the holder of a valid driver's license to operate a commercial motor vehicle if the applicant has completed all other requirements except the driving test. The permit may be renewed for one additional thirty-day period and the fee for the permit and for renewal shall be five dollars.

2. No person may be issued a commercial driver's license until he has passed written and driving tests for the operation of a commercial motor vehicle which complies with the minimum federal standards established by the secretary and has satisfied all other requirements of the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570), as well as any other requirements imposed by state law. **Applicants for a hazardous materials endorsement must also meet the requirements of the U.S. Patriot Act of 2001 (Title X of Pub. Law 107-56) as specified and required by regulations promulgated by the secretary.** Nothing contained in this subsection shall be construed as prohibiting the director from establishing alternate testing formats for those who are functionally illiterate; provided, however, that any such alternate test must comply with the minimum requirements of the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570) as established by the secretary.

(1) The written and driving tests shall be held at such times and in such places as the director may designate. A five-dollar examination fee shall be paid by the applicant upon completion of any written or driving test. The director shall delegate the power to conduct the examinations required under sections 302.700 to 302.780 to any member of the highway patrol or any person employed by the highway patrol qualified to give driving examinations.

(2) The director shall adopt and promulgate rules and regulations governing the certification of third-party testers by the department of revenue. Such rules and regulations shall substantially comply with the requirements of 49 CFR Part 383, Section 383.75. A certification to conduct third-party testing shall be valid for one year, and the department shall charge a fee of one hundred dollars to issue or renew the certification of any third-party tester. Any third-party tester who violates any of the rules and regulations adopted and promulgated pursuant to this section shall be subject to having his certification revoked by the department. The department shall provide written notice and an opportunity for the third-party tester to be heard in substantially the same manner as provided in chapter 536, RSMo. If any applicant submits evidence that he has successfully completed a test administered by a third-party tester, the actual driving test for a commercial driver's license may then be waived.

(3) Every applicant for renewal of a commercial driver's license shall provide such certifications and information as required by the secretary and if such person transports a hazardous material **must also**

meet the requirements of the U.S. Patriot Act of 2001 (Title X of Pub. Law 107-56) as specified and required by regulations promulgated by the secretary, such person shall be required to take the written test for such endorsement. A five-dollar examination fee shall be paid for each test taken.

3. The director may waive the driving test for a commercial driver's license if such applicant provides the certifications required by regulations established by the secretary as a substitute for the driving test and holds a valid license.

4. The certifications may include, but not be limited to, stating that during the two-year period immediately prior to applying for a commercial driver's license the applicant:

(1) Has not had more than one license;

(2) Has not had any license suspended, revoked, canceled or disqualified;

(3) Has not had a conviction in any type of motor vehicle for driving while intoxicated, driving while under the influence of alcohol or controlled substance, leaving the scene of an accident or felony involving the use of a commercial motor vehicle;

(4) Has not violated any state law or county or municipal ordinance relating to the operation of a motor vehicle in connection with an accident; and

(5) Has no record of an accident in which such applicant was at fault.

5. In order to be valid as a certification exempting the applicant from the driving test, the applicant shall also provide evidence and certify that:

(1) He is regularly employed in a job requiring him to drive a commercial motor vehicle; and

(2) He has previously taken and passed a driving test given by a state with a classified licensing and testing system, and that the test was behind the wheel in a representative vehicle for that applicant's license classification; or

(3) He has operated, for at least two years immediately preceding application for a commercial driver's license, a vehicle representative of the commercial motor vehicle the applicant drives or expects to drive.

6. A commercial driver's license may not be issued to a person while the person is disqualified from driving a commercial motor vehicle, when a disqualification is pending in any state or while the person's driver's license is suspended, revoked, or canceled in any state; nor may a commercial driver's license be issued unless the person first surrenders in a manner prescribed by the director any commercial driver's license issued by another state, which license shall be returned to the issuing state for cancellation.

304.001. As used in this chapter and chapter 307, RSMo, the following terms shall mean:

(1) "Abandoned property", any unattended motor vehicle, trailer, all-terrain vehicle, outboard motor or vessel removed or subject to removal from public or private property as provided in sections 304.155 and 304.157, whether or not operational **or any motor vehicle involved in an accident whereby a law enforcement official requests such vehicle to be removed from the scene because the operator or owner is unable to arrange for the abandoned property's timely removal;**

(2) "Commercial vehicle enforcement officers", employees of the Missouri state highway patrol who are not members of the patrol but who are appointed by the superintendent of the highway patrol to enforce the laws, rules, and regulations pertaining to commercial vehicles, trailers, special mobile equipment and drivers of such vehicles;

(3) "Commercial vehicle inspectors", employees of the Missouri state highway patrol who are not members of the patrol but who are appointed by the superintendent of the highway patrol to supervise or operate permanent or portable weigh stations in the enforcement of commercial vehicle laws;

(4) "Commission", the state highways and transportation commission;

(5) "Department", the state transportation department;

(6) "Freeway", a divided state highway with four or more lanes, with no access to the throughways except the established interchanges and with no at-grade crossings;

(7) "Interstate highway", a state highway included in the national system of interstate highways located within the boundaries of Missouri, as officially designated or as may be hereafter designated by the state highways and transportation commission with the approval of the Secretary of Transportation, pursuant to Title 23, U.S.C., as amended;

(8) "Members of the patrol", the superintendent, lieutenant colonel, majors, captains, director of radio, lieutenants, sergeants, corporals and patrolmen of the Missouri state highway patrol;

(9) "Off-road vehicle", any vehicle designed for or capable of cross-country travel on or immediately over land, water, ice, snow, marsh, swampland, or other natural terrain without benefit of a road or trail:

(a) Including, without limitation, the following:

a. Jeeps;

b. All-terrain vehicles;

c. Dune buggies;

d. Multiwheel drive or low-pressure tire vehicles;

e. Vehicle using an endless belt, or tread or treads, or a combination of tread and low-pressure tires;

f. Motorcycles, trail bikes, minibikes and related vehicles;

g. Any other means of transportation deriving power from any source other than muscle or wind;

and

(b) Excluding the following:

a. Registered motorboats;

b. Aircraft;

c. Any military, fire or law enforcement vehicle;

d. Farm-type tractors and other self-propelled equipment for harvesting and transporting farm or forest products;

e. Any vehicle being used for farm purposes, earth moving, or construction while being used for such purposes on the work site;

f. Self-propelled lawnmowers, or lawn or garden tractors, or golf carts, while being used exclusively for their designed purpose; and

g. Any vehicle being used for the purpose of transporting a handicapped person;

(10) "Person", any natural person, corporation, or other legal entity;

(11) "Right-of-way", the entire width of land between the boundary lines of a state highway, including any roadway;

(12) "Roadway", that portion of a state highway ordinarily used for vehicular travel, exclusive of the berm or shoulder;

(13) "State highway", a highway constructed or maintained by the state highways and transportation commission with the aid of state funds or United States government funds, or any highway included by authority of law in the state highway system, including all right-of-way;

(14) "Towing company", any person or entity which tows, removes or stores abandoned property;

(15) "Urbanized area", an area with a population of fifty thousand or more designated by the Bureau of the Census, within boundaries to be fixed by the state highways and transportation commission and local officials in cooperation with each other and approved by the Secretary of Transportation. The boundary of an urbanized area shall, at a minimum, encompass the entire urbanized area as designed by the Bureau of the Census.

**304.370. 1. For the purpose of this section, hazardous materials shall be defined pursuant to Part 397, Title 49, Code of Federal Regulations, as adopted and amended.**

**2. No person shall transport hazardous materials in or through any highway tunnel located beneath any airport runway in this state. For purposes of this section, a tunnel shall be defined as a horizontal subterranean passageway through or under an obstruction of a length of one hundred yards or more.**

**3. No person shall park a vehicle containing hazardous materials within three hundred feet of any highway tunnel located beneath any airport runway in this state except as provided pursuant to Part 397, Title 49, Code of Federal Regulations, as such regulations have been and may periodically be amended.**

**4. Any person who is found or pleads guilty to a violation of this section shall be guilty of a class B misdemeanor. Any person who is found or pleads guilty to a second or subsequent violation of this section shall be guilty of a class A misdemeanor. Violations of this section shall be enforced pursuant to section 390.201, RSMo.**

305.230. 1. The state highways and transportation commission shall administer an aeronautics program within this state. The [state] commission shall encourage, foster and participate with the political subdivisions of this state in the promotion and development of aeronautics. The [state] commission may

provide financial assistance in the form of grants from funds appropriated for such purpose to any political subdivision or instrumentality of this state acting independently or jointly or to the owner or owners of any privately owned airport designated as a reliever by the Federal Aviation Administration for the planning, acquisition, construction, improvement or maintenance of airports, or for other aeronautical purposes.

2. Any political subdivision or instrumentality of this state or the owner or owners of any privately owned airport designated as a reliever by the Federal Aviation Administration receiving state funds for the purchase, construction, or improvement, except maintenance, of an airport shall agree before any funds are paid to it to control by ownership or lease the airport for a period equal to the useful life of the project as determined by the [state] commission following the last payment of state or federal funds to it. In the event an airport authority ceases to exist for any reason, this obligation shall be carried out by the governing body which created the authority.

3. Unless otherwise provided, grants to political subdivisions, instrumentalities or to the owner or owners of any privately owned airport designated as a reliever by the Federal Aviation Administration shall be made from the aviation trust fund. In making grants, the commission shall consider whether the local community has given financial support to the airport in the past. Priority shall be given to airports with local funding for the past five years with no reduction in such funding. The aviation trust fund is a revolving trust fund exempt from the provisions of section 33.080, RSMo, relating to the transfer of funds to the general revenue funds of the state by the state treasurer. All interest earned upon the balance in the aviation trust fund shall be deposited to the credit of the same fund.

4. The moneys in the aviation trust fund shall be administered by the [state] commission and, when appropriated, shall be used for the following purposes:

(1) As matching funds on an up to [eighty] **ninety** percent [state/twenty] **state/ten** percent local basis, except in the case where federal funds are being matched, when the ratio of state and local funds used to match the federal funds shall be fifty percent state/fifty percent local:

(a) For preventive maintenance of runways, taxiways and aircraft parking areas, and for emergency repairs of the same;

(b) For the acquisition of land for the development and improvement of airports;

(c) For the earthwork and drainage necessary for the construction, reconstruction or repair of runways, taxiways, and aircraft parking areas;

(d) For the construction, or restoration of runways, taxiways, or aircraft parking areas;

(e) For the acquisition of land or easements necessary to satisfy Federal Aviation Administration safety requirements;

(f) For the identification, marking or removal of natural or manmade obstructions to airport control zone surfaces and safety areas;

(g) For the installation of runway, taxiway, boundary, ramp, or obstruction lights, together with any work directly related to the electrical equipment;



- (h) For the erection of fencing on or around the perimeter of an airport;
- (i) For purchase, installation or repair of air navigational and landing aid facilities and communication equipment;
- (j) For engineering related to a project funded under the provisions of this section and technical studies or consultation related to aeronautics;
- (k) For airport planning projects including master plans and site selection for development of new airports, for updating or establishing master plans and airport layout plans at existing airports;
- (l) For the purchase, installation, or repair of safety equipment and such other capital improvements and equipment as may be required for the safe and efficient operation of the airport;
  - (2) As total funds, with no local match:
    - (a) For providing air markers, windsocks, and other items determined to be in the interest of the safety of the general flying public;
    - (b) For the printing and distribution of state aeronautical charts and state airport directories on an annual basis, and a newsletter on a quarterly basis or the publishing and distribution of any public interest information deemed necessary by the [state] commission;
    - (c) For the conducting of aviation safety workshops;
    - (d) For the promotion of aerospace education;
  - (3) As total funds with no local match, up to five hundred thousand dollars per year may be used for the cost of operating existing air traffic control towers that do not receive funding from the Federal Aviation Administration or the **United States** Department of Defense, except no more than one hundred twenty-five thousand dollars per year may be used for any individual control tower.

5. In the event of a natural or manmade disaster which closes any runway or renders inoperative any electronic or visual landing aid at an airport, any funds appropriated for the purpose of capital improvements or maintenance of airports may be made immediately available for necessary repairs once they are approved by the [Missouri department of transportation] **commission**. For projects designated as emergencies by the [Missouri department of transportation] **commission**, all requirements relating to normal procurement of engineering and construction services are waived.

6. As used in this section, the term "instrumentality of the state" shall mean any state educational institution as defined in section 176.010, RSMo, or any state agency which owned or operated an airport on January 1, 1997, and continues to own or operate such airport.

**307.205. 1. For the purposes of this section, "electric personal assistive mobility device" (EPAMD) shall mean a self-balancing, two nontandem wheeled device, designed to transport only one person, with an electric propulsion system with an average power of seven hundred fifty watts (one horsepower), whose maximum speed on a paved level surface, when powered solely by such a propulsion system while ridden by an operator who weighs one hundred seventy pounds, is less than twenty miles per hour.**

2. An electric personal assistive mobility device may be operated upon a street, highway, sidewalk, and bicycle path. Every person operating such a device shall be granted all of the rights and be subject to all of the duties applicable to a pedestrian pursuant to chapter 304, RSMo.

3. Persons under sixteen years of age shall not operate an electric personal assistive mobility device, except for an operator with a mobility-related disability.

4. An electric personal assistive mobility device shall be operated only on roadways with a speed limit of forty-five miles per hour or less. This shall not prohibit the use of such device when crossing roadways with speed limits in excess of forty-five miles per hour.

5. A city or town shall have the authority to regulate the operation of an electric personal assistive mobility device within its city or town limits.

307.207. Every electric personal assistive mobility device (EPAMD) when in use on a roadway during the period from one-half hour after sunset to one-half hour before sunrise shall be equipped with the following:

(1) A front-facing lamp on the front or carried by the rider which shall emit a white light visible at night under normal atmospheric conditions on a straight, level, unlighted roadway at five hundred feet;

(2) A rear-facing red reflector, at least two square inches in reflective surface area, or a rear-facing red lamp, on the rear which shall be visible at night under normal atmospheric conditions on a straight, level, unlighted roadway when viewed by a vehicle driver under the lower beams of vehicle headlights at six hundred feet.

307.209. Every person operating an electric personal assistive mobility device (EPAMD) at less than the posted speed or slower than the flow of traffic upon a street or highway shall ride as near to the right side of the roadway as safe, exercising due care when passing a standing vehicle or one proceeding in the same direction, except when making a left turn, when avoiding hazardous conditions, when the lane is too narrow to share with another vehicle, or when on a one-way street.

307.211. Any person seventeen years of age or older who violates any provision of sections 307.205 to 307.211 is guilty of an infraction and, upon conviction thereof, shall be punished by a fine of not less than five dollars nor more than twenty-five dollars. Such an infraction does not constitute a crime and conviction shall not give rise to any disability or legal disadvantage based on conviction of a criminal offense. If any person under seventeen years of age violates any provision of section 307.205 to 307.211 in the presence of a peace officer possessing the duty and power of arrest for violation of the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state, said officer may impound the

**electric personal assistive mobility device (EPAMD) involved for a period not to exceed five days upon issuance of a receipt to the child riding it or to its owner.**

Section B. Section A of this act is hereby submitted to the qualified voters of this state for approval or rejection at an election which is hereby ordered and which shall be held and conducted on the Tuesday immediately following the first Monday in November, 2002, or at a special election to be called by the governor for that purpose, pursuant to the laws and constitutional provisions of this state applicable to general elections and the submission of referendum measures by initiative petition, and section A of this act shall become effective January 1, 2003, if approved by a majority of the votes cast thereon at such election and not otherwise.

Section C. At the general election on the first Tuesday immediately following the first Monday in November 2002, and every ten years thereafter, the secretary of state shall submit to the electors of this state the question: "Shall the additional revenues for transportation included in sections 144.020 and 144.021, as approved by the voters in the November 2002 general election or any special election called by the governor for such purpose, be renewed and extended for ten years?". If a majority of the votes cast thereon is for the affirmative, the additional revenues shall be renewed and extended for ten years. If a majority of the votes cast thereon is for the negative, the decennial referendum provision of this section, the increase in rates included in sections 144.020 and 144.021, as approved by the voters in the November 2002 general election or any special election called by the governor for such purpose and which direct the deposit and use of revenues pursuant to section A of this act shall expire on July first following the election and return to the provisions in effect on January 1, 2002.

Bill

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