

SECOND REGULAR SESSION

SENATE BILL NO. 1067

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATORS FOSTER AND JOHNSON.

Read 1st time January 30, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

4349S.011

AN ACT

To repeal sections 261.110, 261.230, 261.235 and 261.239, RSMo, and to enact in lieu thereof five new sections relating to the marketing of agricultural products.

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

Section A. Sections 261.110, 261.230, 261.235 and 261.239, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 261.110, 261.120, 261.230, 261.235 and 261.239, to read as follows:

- 261.110. 1. The department of agriculture shall develop standards and labeling for organic farming.
2. The department of agriculture shall adopt rules to implement the provisions of this section.
3. [No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.] **The department may cooperate with any agency of the federal government, any state, any other agency in this state, any private entity or person engaged in growing, processing, marketing of organic products, or any group of such persons in this state, in programs to effectuate the purposes of this section and may enter into written agreements to effectuate such purposes. Such agreements may provide for cost and revenue sharing, and for division of duties and responsibilities pursuant to this section and may include other provisions generally to effectuate the purposes of this section.**
4. **Any rule or portion of a rule, as that term is defined in section 536.010,**

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

RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, 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, 2002, shall be invalid and void.

261.120. There is hereby created in the state treasury the "Organic Production and Certification Fee Fund". Fees imposed in accordance with rules promulgated pursuant to section 261.110 shall be credited to the organic production and certification fee fund.

261.230. The director of the department of agriculture shall, for the use of the marketing division of the department of agriculture, develop and implement rules and regulations by product category for all Missouri agricultural products included in the AgriMissouri marketing program or any equivalent successor program. [Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, 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, 2000, shall be invalid and void.]

261.235. 1. There is hereby created in the state treasury for the use of the marketing division of the state department of agriculture a fund to be known as "The Missouri Agricultural Products Marketing Development Fund". [The general assembly shall appropriate to the fund from the general revenue fund one million three hundred thousand dollars for fiscal year 2002, one million dollars for fiscal year 2003 and seven hundred fifty thousand dollars for fiscal years 2004 to 2006.] All moneys received by the state department of agriculture for Missouri agricultural products marketing development from any source, including trademark fees, shall be deposited in the fund. Moneys deposited in the fund shall, upon appropriation by the general assembly to the state department of agriculture, be expended by the marketing division of the state department of agriculture for purposes of Missouri agricultural products marketing development as specified in this section. The unexpended balance in the Missouri agricultural products marketing development fund at the end of the biennium shall not be transferred to the ordinary revenue fund of the state treasury and accordingly shall be exempt from the provisions of section 33.080, RSMo, relating to transfer of funds to the ordinary revenue funds of the state by the state treasurer.

2. There is hereby created within the department of agriculture the "Citizens' Advisory Commission for Marketing Missouri Agricultural Products". The commission shall establish guidelines [for the spending by] **and make recommendations to the director of the department of agriculture, for use of funds appropriated by the general assembly for the marketing division of the department of agriculture [of all moneys in], and for all funds collected or appropriated to the Missouri agricultural products marketing development fund created pursuant to subsection 1 of this section.** The guidelines shall focus on the promotion of the AgriMissouri or successor trademark associated with Missouri agricultural products which has been approved by the general assembly, and shall advance the following objectives:

(1) Increasing the impact and fostering the effectiveness of local efforts to promote Missouri agricultural products;

(2) Enabling and encouraging expanded advertising efforts for Missouri agricultural products;

(3) Encouraging effective, high-quality advertising projects, innovative marketing strategies, and the coordination of local, regional and statewide marketing efforts;

(4) Providing training and technical assistance to cooperative-marketing partners.

The commission shall establish a fee structure for sellers electing to use the AgriMissouri or successor trademark associated with Missouri agricultural products. All trademark fees shall be deposited to the credit of the Missouri agricultural products marketing development fund, created pursuant to this section. The commission may also create two additional trademark labels to be associated with Missouri agricultural products for the labeling of Missouri certified organic products and Missouri certified family-farm-produced products.

3. [The commission shall establish a fee structure for sellers electing to use the AgriMissouri or successor trademark associated with Missouri agricultural products. Under the fee structure: (1) a seller having gross annual sales greater than two million dollars per fiscal year of Missouri agricultural products which constitute the final product of a series of processes or activities shall remit to the marketing division of the department of agriculture, at such times and in such manner as may be prescribed, a trademark fee of one-half of one percent of the aggregate amount of all of such seller's wholesale sales of products carrying the AgriMissouri or successor trademark; and (2) all sellers having gross annual sales less than or equal to two million dollars per fiscal year of Missouri agricultural products which constitute the final product of a series of processes or activities shall, after three years of selling Missouri agricultural products carrying the AgriMissouri or successor trademark, remit to the marketing division of the department of agriculture, at such times and in such manner as may be prescribed, a trademark fee of one-half of one percent of the aggregate amount of all of such seller's wholesale sales of products carrying the AgriMissouri or successor trademark. All trademark fees shall be deposited

to the credit of the Missouri agricultural products marketing development fund, created pursuant to this section. The commission may also create two additional trademark labels to be associated with Missouri agricultural products which are certified organic products and certified family-farm-produced products.

4.] The marketing division of the department of agriculture is authorized to promote rules consistent with the guidelines and fee structure established by the commission. [No rule or portion of a rule shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.] **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, 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, 2002, shall be invalid and void.**

[5.] **4.** The commission shall consist of nine members appointed by the governor with the advice and consent of the senate. One member shall be the director of the market development division of the department of agriculture, **or his or her representative**. At least one member shall be a specialist in advertising; at least one member shall be a specialist in agribusiness; at least one member shall be a specialist in the retail grocery business; at least one member shall be a specialist in communications; at least one member shall be a specialist in product distribution; at least one member shall be a family farmer with expertise in livestock farming; at least one member shall be a family farmer with expertise in grain farming and at least one member shall be a family farmer with expertise in organic farming. Members shall serve for four-year terms, except in the first appointments three members shall be appointed for terms of four years, three members shall be appointed for terms of three years and three members shall be appointed for terms of two years each. Any member appointed to fill a vacancy of an unexpired term shall be appointed for the remainder of the term of the member causing the vacancy. The governor shall appoint a chairperson of the commission, subject to ratification by the commission.

[6.] **5.** Commission members shall receive no compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties on the commission. The division of market development of the department of agriculture shall provide all necessary staff and support services as required by the commission to hold commission meetings, to maintain records of official acts and to conduct all other business of the commission. The commission shall meet quarterly and at any such time that it deems

necessary. Meetings may be called by the chairperson or by a petition signed by a majority of the members of the commission. Ten days' notice shall be given in writing to such members prior to the meeting date. A simple majority of the members of the commission shall be present to constitute a quorum. Proxy voting shall not be permitted.

261.239. The marketing division of the department of agriculture shall create an Internet web site for the purpose of fostering the marketing of Missouri agricultural products over the Internet. [The web site shall allow consumers to place orders for Missouri agricultural products over the Internet and shall enable small companies which process Missouri agricultural products to pool products with other such small companies.]

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