

SECOND REGULAR SESSION

SENATE BILL NO. 1112

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATORS CASKEY AND RUSSELL.

Read 1st time February 6, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

3660S.031

AN ACT

To repeal sections 44.023, 306.124, 307.177, 407.472, 570.030, 571.020, 574.115 and 578.008, RSMo, relating to terrorism, and to enact in lieu thereof thirty-three new sections relating to the same subject, with an emergency clause and penalty provisions.

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

Section A. Sections 44.023, 306.124, 307.177, 407.472, 570.030, 571.020, 574.115 and 578.008, RSMo, are repealed and thirty-three new sections enacted in lieu thereof, to be known as sections 44.023, 304.370, 306.124, 307.177, 407.472, 407.728, 407.729, 540.600, 540.603, 540.606, 540.609, 540.612, 540.615, 540.618, 540.621, 540.624, 540.627, 540.630, 540.633, 540.636, 540.639, 540.642, 540.645, 540.648, 540.651, 540.654, 540.657, 569.072, 570.030, 571.020, 574.115, 576.080 and 578.008, to read as follows:

44.023. 1. The Missouri state emergency management agency shall establish and administer an emergency volunteer program to be activated in the event of [an earthquake or other natural] a disaster whereby volunteer architects and professional engineers registered under chapter 327, RSMo, and construction contractors, equipment dealers and other owners and operators of construction equipment may volunteer the use of their services and equipment, either manned or unmanned, for up to three days as requested and needed by the state emergency management agency.

2. In the event of [an earthquake or other natural] a disaster, the enrolled volunteers shall, where needed, assist local jurisdictions and local building inspectors to provide essential demolition, cleanup or other related services and to determine whether buildings affected by [an earthquake or other natural] a disaster:

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

- (1) Have not sustained serious damage and may be occupied;
- (2) Must be vacated temporarily pending repairs; or
- (3) Must be demolished in order to avoid hazards to occupants or other persons.

3. Any person when utilized as a volunteer under the emergency volunteer program shall have his incidental expenses paid by the local jurisdiction for which the volunteer service is provided.

4. Architects and professional engineers, construction contractors, equipment dealers and other owners and operators of construction equipment and the companies with which they are employed, working under the emergency volunteer program shall not be personally liable either jointly or separately for any act or acts committed in the performance of their official duties as emergency volunteers except in the case of willful misconduct or gross negligence.

5. Any individuals, employers, partnerships, corporations or proprietorships, that are working under the emergency volunteer program providing demolition, cleanup, removal or other related services, shall not be liable for any acts committed in the performance of their official duties as emergency volunteers except in the case of willful misconduct or gross negligence.

304.370. 1. No person shall transport any hazardous material in or through any tunnel in this state unless permitted pursuant to rules and regulations governing the transportation of hazardous materials in a tunnel as promulgated by the department of transportation. 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.

2. Any person who is found guilty of 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 D felony.

306.124. 1. (1) "Aids to navigation" means buoys, beacons or other fixed objects in the water which are used to mark obstructions to navigation or to direct navigation through safe channels.

(2) "Regulatory markers" means any anchored or fixed markers in or on the water or signs on the shore or on bridges over the water other than aids to navigation and shall include but not be limited to bathing markers, speed zone markers, information markers, danger zone markers, boat keep-out areas, and mooring buoys.

2. The Missouri state water patrol after a public hearing pursuant to notice thereof published not less than ten days prior thereto in each county to be affected may provide for the uniform marking of the water areas in this state through the placement of aids to navigation and regulatory markers. The Missouri state water patrol shall establish a marking system compatible with the system of aids to navigation prescribed by the United States Coast Guard. No city, county, or person shall mark or obstruct the water of this state in any manner so as to endanger the operation of watercraft or conflict with the marking system prescribed by the state water patrol.

3. Whenever, due to any actual or imminent man-made or natural disaster, the navigation or use of any waters of this state presents an unreasonable danger to persons or property, the Missouri state water patrol may, with the consent of the director of the department of public safety, close such waters by the placement of regulatory markers.

4. The operation of any watercraft within prohibited areas that are marked shall be prima facie evidence of negligent operation.

[4.] 5. It shall be unlawful for any person to operate a watercraft on the waters of this state in a manner other than that prescribed or permitted by regulatory markers.

[5.] 6. No person shall moor or fasten a watercraft to or willfully damage, tamper, remove, obstruct, or interfere with any aid to navigation or regulatory marker established pursuant to sections 306.010 to 306.126.

307.177. 1. It is unlawful for any person to operate any bus, truck, truck-tractor and trailer combination, or other commercial motor vehicle and trailer upon any highway of this state, whether intrastate transportation or interstate transportation, transporting materials defined and classified as hazardous by the United States Department of Transportation pursuant to Title 49 of the Code of Federal Regulations, as such regulations have been and may periodically be amended, unless such vehicle is equipped with the equipment required by and be operated in accordance with safety and hazardous materials regulations for such vehicles as adopted by the United States Department of Transportation.

2. Notwithstanding the provisions of subsection 1 of this section to the contrary, Part 391, Subpart E, Title 49, Code of Federal Regulations, relating to the physical requirements of drivers shall not be applicable to drivers in intrastate commerce, provided such drivers were licensed by this state as chauffeurs to operate commercial motor vehicles on May 13, 1988.

3. Failure to comply with the requirements of this section may result in the commercial motor vehicle and trailer and driver of such vehicle and trailer being placed out of service. Criteria used for placing drivers and vehicles out of service are the North American Uniform Out-of-Service Criteria adopted by the Commercial Vehicle Safety Alliance and the United States Department of Transportation, as such criteria have been and may periodically be

amended.

4. Violation of this section shall be deemed a class A misdemeanor.

407.472. 1. When it appears to the attorney general that a person has engaged in, is engaging in or is about to engage in any method, use, act or practice declared to be unlawful by sections 407.450 to 407.478, **or when it appears that any funds solicited by or on behalf of any charitable organization are being used, or are about to be used, in violation of its purposes or for an unlawful purpose**, or when he believes it to be in the public interest that an investigation should be made to ascertain whether a person in fact has engaged in, is engaging in, or is about to engage in any such act or practice he may issue and cause to be served a civil investigative demand to assist in the investigation of the matter. The issuance and enforcement of each civil investigative demand shall be in compliance with all of the terms and provisions of sections 407.040 to 407.090.

2. Whenever it appears to the attorney general that a person has engaged in, is engaging in, or is about to engage in any method, use, act, or practice declared to be unlawful by sections 407.450 to 407.478, **or when it appears that any funds solicited by or on behalf of any charitable organization are being used, or are about to be used, in violation of its purposes or for an unlawful purpose**, he may bring an action pursuant to section 407.100 for an injunction prohibiting such person from continuing such methods, uses, acts, or practices, or engaging therein, or doing anything in furtherance thereof. In any action brought by the attorney general [under] **pursuant to** this subsection all of the provisions of sections 407.100 to 407.140 shall apply thereto.

407.728. 1. For the purpose of this section and section 407.729, the definitions set forth in section 407.010 shall apply, and in addition the following terms shall mean:

(1) **"Consumer market disruption", an actual or threatened change in the market for essential consumer merchandise due to stress of weather, convulsion of nature, failure or shortage of electric power or other source of energy, strike, civil disorder, war, act of terrorism, military action, any officially declared national or local emergency, or any disaster defined by subdivision (3) of section 44.010, RSMo; and**

(2) **"Essential consumer merchandise", merchandise used, bought or rendered primarily for personal, family or household purposes and essential to the health, safety or household consumers.**

407.729. 1. It shall be unlawful for any person to exercise unfair leverage when selling essential consumer merchandise during a consumer market disruption.

2. Whether a sale constitutes an exercise of unfair leverage is a matter of law for the court to determine.

3. Any of the following shall be prima facie evidence of the exercise of unfair leverage:

(1) A gross disparity between the price at which the seller sold the merchandise and the seller's price for any similar sale made in the usual course of business immediately before the onset of the consumer market disruption; or

(2) A gross disparity between the price at which the seller sold the merchandise and the price at which the same or comparable merchandise was readily available to consumers in the trade area at the time of the sale.

4. A seller may rebut a prima facie case with evidence that the seller did not exercise unfair leverage, including but not limited to, evidence that any gross disparity in price was justified by a corresponding gross disparity in costs imposed on the seller and not within the seller's control.

5. A person who violates this section shall be liable for:

(1) Restitution to any consumer against whom the person exercised unfair leverage in violation of this section; and

(2) A civil penalty to the state of Missouri in an amount not to exceed the greater of five thousand dollars or twice the amount gained unlawfully in violation of this section.

6. The attorney general shall have authority to commence a civil action for a violation of this section.

540.600. Sections 540.600 to 540.657 may be cited as the "State Grand Jury Act", and any state grand jury which may be convened as provided herein to be known as a "State Grand Jury of Missouri".

540.603. There is established a state grand jury system, each state grand jury consisting of eighteen persons who shall meet in Jefferson City or at another suitable place in this state designated by the presiding judge of the circuit court in which the attorney general seeks to impanel a state grand jury for a term hereinafter provided. Twelve members of a state grand jury constitute a quorum.

540.606. 1. The jurisdiction of a state grand jury impaneled pursuant to sections 540.600 to 540.657 extends throughout the state. The subject matter jurisdiction of a state grand jury in all cases is limited to terrorism related offenses.

2. Whenever the attorney general and the director of the department of public safety consider it necessary and normal investigative or prosecutorial procedures are not adequate, the attorney general may petition in writing to the presiding judge of the circuit court in which he seeks to impanel a state grand jury for an order impaneling a state grand jury. This judge is referred to in sections 540.600 to 540.657 as the impaneling judge. The petition must allege the type of terrorism-related offenses to be inquired into. The petition in all instances must specify that the public interest is served by the impanelment.

3. The impaneling judge, after due consideration of the petition, may order the impanelment of a state grand jury in accordance with the petition for a term of twelve calendar months. Upon petition by the attorney general, the then presiding judge of the circuit court in which a state grand jury was impaneled, by order, may extend the term of that state grand jury for a period of six months but the term of that state grand jury, including any extension thereof, shall not exceed two years.

4. The presiding judge of the circuit court wherein a state grand jury is sitting shall preside over that state grand jury during his tenure as presiding judge of the circuit court. Any successor presiding circuit court judge shall assume all duties and responsibilities with regard to any state grand jury impaneled before his term, including, but not limited to, presiding over the state grand jury and ruling on petitions to extend its term.

5. The presiding judge of a state grand jury may discharge a state grand jury prior to the end of its original term or any extension thereof, upon a determination that its business has been completed or upon the request of the attorney general.

6. If, at any time within the original term of any state grand jury or any extension thereof, the presiding judge of a state grand jury determines that the state grand jury is not conducting investigative activity within its jurisdiction or proper investigative activity, the presiding judge of a state grand jury may limit the investigation so that the investigation conforms with the jurisdiction of the state grand jury and existing law or may discharge the state grand jury. An order issued pursuant to this subsection or subsection 5 of this section shall not become effective less than ten days after the date on which it is issued and actual notice given to the attorney general and the foreperson of the state grand jury, and may be appealed by the attorney general to the supreme court. If an appeal from the order is made, the state grand jury, except as is otherwise ordered by the supreme court, shall continue to exercise its powers pending disposition of the appeal.

540.609. A state grand jury may return indictments irrespective of the county or judicial circuit where the offense is committed or triable. If an indictment is returned, it must be certified and transferred for prosecution to the county where the offense was committed. The powers and duties of and the law applicable to county grand juries apply to a state grand jury, except when these are inconsistent with the provisions of sections 540.600 to 540.657.

540.612. 1. The attorney general or his designee shall attend sessions of a state grand jury and shall serve as its legal advisor. The attorney general or his designee shall examine witnesses, present evidence, and draft indictments and reports or the direction of a state grand jury.

2. In all investigations of terrorism offenses the attorney general shall consult with the appropriate prosecutor or circuit attorney of the jurisdiction or jurisdictions where the crime or crimes occurred. After consultation, the attorney general shall determine whether the investigation should be presented to a county grand jury or whether to petition, pursuant to section 540.606, for a state grand jury investigation.

3. Where it is determined that a conflict of interest disqualifies a prosecutor or circuit attorney or the attorney general from participation in a state grand jury investigation and prosecution, the following shall apply in the case of:

(1) A prosecutor or circuit attorney and the attorney general shall conduct such investigation and prosecution unless the attorney general and the prosecutor or circuit attorney not so disqualified concur in the appointment by the attorney general of the eligible prosecutor or circuit attorney as a designee of the attorney general pursuant to sections 540.612 and 540.642;

(2) The attorney general's disqualification, the matter shall be referred to a prosecutor or circuit attorney for investigation and prosecution. Any doubt regarding disqualification shall be resolved by the presiding judge of the state grand jury.

540.615. 1. In the January following the effective date of sections 540.600 to 540.657 and each January thereafter, the jury commissioners for each county shall proceed to draw at random from the jury box the name of one person for each one thousand residents or fraction thereof of the county as determined by the latest United States census but following the effective date of sections 540.600 to 540.657. The impaneling judge may authorize an interim procedure for the selection of state grand jurors to constitute the first state grand jury established pursuant to sections 540.600 to 540.657. The jury commissioners shall not disqualify or excuse any individual whose name is drawn. When the list is compiled, the clerk of court shall forward the list to the person designated as the clerk of the state grand jury by the impaneling judge. Upon receipt of all the lists from the clerks of court, the clerk of the state grand jury shall draw therefrom at random a list of seven hundred eligible state grand jurors, this list to be known as the master list. The clerk of the state grand jury shall mail to every person whose name is drawn a juror qualification form, the form and the manner of qualifying potential state grand jurors to be determined by the supreme court. Based upon these inquiries, the presiding judge shall determine whether an individual is unqualified for, or exempt, or to be excused from jury service. The clerk of the state grand jury shall prepare annually a jury list of persons qualified to serve as state grand jurors, this list to be known as the qualified state grand jury list. No state grand juror may be excused or disqualified except in accordance with existing law.

2. Upon the impaneling judge ordering a term of a state grand jury on petition of the attorney general, the clerk of the state grand jury, upon the random drawing of the names of sixty persons from the qualified jury list, shall summon these individuals to attend the jury selection process for the state grand jury. The jury selection process must be conducted by the presiding judge. The clerk of the state grand jury shall issue a summons for grand jury service for these persons, requiring their attendance at the time designated. The summons for grand jury service must be delivered immediately to the sheriff of the county where the person resides and served as provided by law. From the sixty persons so summoned, a state grand jury for that term of eighteen persons plus four alternates must be drawn in the same manner as jurors are drawn for service on the county grand jury. Nothing in this section may be construed to limit the right of the attorney general or his designee to request that a potential state grand juror be excused for cause. Jurors of a state grand jury shall receive a daily subsistence expense equal to the maximum allowable for the Jefferson City, Missouri area, by regulation of the Internal Revenue Code when summoned or serving, and also must be paid the same per diem and mileage as are members of state boards, commissions, and committees.

540.618. The presiding judge shall appoint one of the jurors to be foreperson and another to be deputy foreperson. During the absence of the foreperson, the deputy foreperson shall act as foreperson.

540.621. 1. The clerk of the state grand jury, upon the request of the attorney general or his designee, shall issue subpoenas or subpoenas duces tecum to compel individuals, documents, or other materials to be brought from anywhere in this State to a state grand jury. In addition, a state grand jury may proceed in the same manner as provided by the subpoena rules of the Missouri rules of civil procedure, except where either is inconsistent with the provisions of sections 540.600 to 540.657; provided the subpoena rules of the Missouri rules of civil procedure are not considered a limitation upon this section, but supplemental thereto. The subpoenas and subpoenas duces tecum may be for investigative purposes and for the retention of documents or other materials so subpoenaed for proper criminal proceedings. Any law enforcement officer with appropriate jurisdiction is empowered to serve these subpoenas and subpoenas duces tecum and receive these documents and other materials for return to a state grand jury. Any person violating a subpoena or subpoena duces tecum issued pursuant to sections 540.600 to 540.657, or who fails to fully answer all questions put to him before proceedings of a state grand jury where the response thereto is not privileged or otherwise protected by law, including the granting of immunity as authorized by section 540.645, may be punished by the presiding judge

for contempt. To this end, where the violation or failure to answer is alleged to have occurred, the attorney general or his designee may petition the presiding judge to compel compliance by the person alleged to have committed the violation or who has failed to answer. If the presiding judge considers compliance is warranted, he may order this compliance and may punish the individual for contempt where the compliance does not occur.

2. The clerk of the state grand jury also may issue subpoenas and subpoenas duces tecum to compel individuals, documents, or other materials to be brought from anywhere in this state to the trial of any indictment returned by a state grand jury or the trial of any civil forfeiture action arising out of an investigation conducted by a state grand jury.

540.624. Once a state grand jury has entered into a term, the petition and order establishing same may be amended as often as necessary and appropriate so as to expand the areas of inquiry authorized by the order or to add additional areas of inquiry thereto. The procedures for amending this authority are the same as those for filing the original petition and order.

540.627. A court reporter shall record, either stenographically or by use of an electronic recording device, all proceedings except when a state grand jury is deliberating or voting. Subject to the limitations of section 540.633, a defendant has the right to review and to reproduce the stenographically or electronically recorded materials. Transcripts of the recorded testimony or proceedings must be made available when requested by the attorney general or the attorney general's designee. Subject to the limitations of section 540.633 and Missouri rules of criminal procedure, a copy of the transcript of the recorded testimony or proceedings requested by the attorney general or his designee shall be provided to the defendant by the court reporter, upon request, at the transcript rate established by the office of court administrator. An unintentional failure of any recording to reproduce all or any portion of the testimony or proceedings does not affect the validity of the prosecution. The recording or reporter's notes or any transcript prepared therefrom and all books, papers, records, correspondence, or other documents produced before a state grand jury must remain in the custody and control of the attorney general or his designee unless otherwise ordered by the court in a particular case.

540.630. The foreperson shall administer an oath or affirmation in the manner prescribed by law to any witness who testifies before a state grand jury.

540.633. 1. State grand jury proceedings are secret, and a state grand juror shall not disclose the nature or substance of the deliberations or vote of the state grand jury. The only persons who may be present in the state grand jury room when

a state grand jury is in session, except for deliberations and voting, are the state grand jurors, the attorney general or his or her designee, the court reporter, an interpreter if necessary, and the witness testifying. A state grand juror, the attorney general or his designee, any interpreter used, the court reporter, and any person to whom disclosure is made pursuant to subsection 2 of this section may not disclose the testimony of a witness examined before a state grand jury or other evidence received by it except when directed by a court for the purpose of:

(1) Ascertaining whether it is consistent with the testimony given by the witness before the court in any subsequent criminal proceeding;

(2) Determining whether the witness is guilty of perjury;

(3) Assisting local, state or federal law enforcement or investigating agencies, including another grand jury, in investigating crimes under their investigative jurisdiction;

(4) Providing the defendant the materials to which he is entitled pursuant to section 540.627;

(5) Complying with constitutional, statutory, or other legal requirements or to further justice. If the court orders disclosure of matters occurring before a state grand jury, the disclosure must be made in that manner, at that time, and under those conditions as the court directs.

2. In addition, disclosure of testimony of a witness examined before a state grand jury or other evidence received by it may be made without being directed by a court to:

(1) The attorney general or his or her designee for use in the performance of their duties; and

(2) Those governmental personnel, including personnel of the state or its political subdivisions, as are considered necessary by the attorney general or his designee to assist in the performance of their duties to enforce the laws of the state; provided that any person to whom matters are disclosed under this subdivision shall not utilize that state grand jury material for purposes other than assisting the attorney general or his designee in the performance of their duties to enforce the laws of the state. The Attorney General or his designee promptly shall provide the presiding judge before whom was impaneled the state grand jury whose material has been disclosed, the names of the persons to whom the disclosure has been made, and shall certify that the attorney general has advised these persons of their obligation of secrecy under this section.

3. Nothing in this section affects the attorney-client relationship. A client has the right to communicate to his attorney any testimony given by the client to a state

grand jury, any matters involving the client discussed in the client's presence before a state grand jury, and evidence involving the client received by or proffered to a state grand jury in the client's presence.

4. Any person violating the provisions of this section is guilty of a class A misdemeanor and, upon conviction, must be punished by a fine not exceeding five thousand dollars or by a term of imprisonment not exceeding one year, or both.

5. State grand jurors, the attorney general or his designee, the court reporter, any interpreter used, and the clerk of the state grand jury must be sworn to secrecy and also may be punished for criminal contempt for violations of this section.

540.636. Except for the prosecution of cases arising from indictments issued by the state grand jury, the presiding judge has jurisdiction to hear all matters arising from the proceedings of a state grand jury, including, but not limited to, matters relating to the impanelment or removal of state grand jurors, the quashing of subpoenas, the punishment for contempt, and the matter of bail for persons indicted by a state grand jury.

540.639. The attorney general or his designee shall coordinate the scheduling of activities of any state grand jury.

540.642. In order to return a "true bill" of indictment, twelve or more state grand jurors must find that probable cause exists for the indictment and vote in favor of it. Upon indictment by a state grand jury, the indictment must be returned to the presiding judge. If the presiding judge considers the indictment to be within the authority of the state grand jury and otherwise in accordance with the provisions of sections 540.600 to 540.657, the presiding judge shall return the indictment by order to the county where venue is appropriate under state law for prosecution by the attorney general or his designee. The presiding judge may direct that the indictment be kept secret until the defendant is in custody or has been released pending trial. Thereupon, the clerk of the state grand jury shall seal the indictment, and no person shall disclose the return of the indictment except when necessary for the issuance and execution of a warrant.

540.645. If any person asks to be excused from testifying before a state grand jury or from producing any books, papers, records, correspondence, or other documents before a state grand jury on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to any penalty or forfeiture and is notwithstanding directed by the presiding judge to give the testimony or produce the evidence, he must comply with this direction, but no testimony so given or other information produced, or any information directly or indirectly derived from such testimony or such other information, may be received against him in any

criminal action, criminal investigation, or criminal proceeding. No individual testifying or producing evidence or documents is exempt from prosecution or punishment for any perjury committed by him while so testifying, and the testimony or evidence given or produced is admissible against him upon any criminal action, criminal investigation, or criminal proceeding concerning this perjury; provided that any individual may execute, acknowledge, and file a statement with the appropriate court expressly waiving immunity or privilege in respect to any testimony or evidence given or produced and thereupon the testimony or evidence given or produced may be received or produced before any judge or justice, court, tribunal, grand jury, or otherwise, and if so received or produced, the individual is not entitled to any immunity or privilege on account of any testimony he may give or evidence produced.

540.648. Records, orders, and subpoenas relating to state grand jury proceedings must be kept under seal to the extent and for that time as is necessary to prevent disclosure of matters occurring before a state grand jury.

540.651. The attorney general shall make available suitable space for state grand juries to meet. The department of public safety also shall provide services as the state grand juries require. The other costs associated with the state grand jury system, including juror per diem, mileage, and subsistence must be paid from funds appropriated to the attorney general's office for this purpose by the general assembly.

540.654. A state grand jury, whenever it considers necessary, may employ experts to assist it and fix the amount of compensation or per diem to be paid therefor, upon the approval of the presiding judge as to the amount being given before any expert is employed and upon appropriation of sufficient funds therefor by the general assembly as provided in section 540.651.

540.657. The supreme court may promulgate rules as are necessary for the operation of the state grand jury system established herein. 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.

569.072. 1. A person commits the crime of criminal water contamination if such person knowingly introduces any dangerous radiological, chemical or biological agent or substance into any public or private waters of the state or any water supply with

the purpose of causing death or serious physical injury to another person.

2. Criminal water contamination is a class B felony.

570.030. 1. A person commits the crime of stealing if he or she appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion.

2. Evidence of the following is admissible in any criminal prosecution [under] **pursuant to** this section on the issue of the requisite knowledge or belief of the alleged stealer:

(1) That he or she failed or refused to pay for property or services of a hotel, restaurant, inn or boardinghouse;

(2) That he or she gave in payment for property or services of a hotel, restaurant, inn or boardinghouse a check or negotiable paper on which payment was refused;

(3) That he or she left the hotel, restaurant, inn or boardinghouse with the intent to not pay for property or services;

(4) That he or she surreptitiously removed or attempted to remove his or her baggage from a hotel, inn or boardinghouse.

3. Stealing is a class C felony if:

(1) The value of the property or services appropriated is seven hundred fifty dollars or more; or

(2) The actor physically takes the property appropriated from the person of the victim; or

(3) The property appropriated consists of:

(a) Any motor vehicle, watercraft or aircraft; or

(b) Any will or unrecorded deed affecting real property; or

(c) Any credit card or letter of credit; or

(d) Any firearms; or

(e) A United States national flag designed, intended and used for display on buildings or stationary flagstaffs in the open; or

(f) Any original copy of an act, bill or resolution, introduced or acted upon by the legislature of the state of Missouri; or

(g) Any pleading, notice, judgment or any other record or entry of any court of this state, any other state or of the United States; or

(h) Any book of registration or list of voters required by chapter 115, RSMo; or

(i) Any animal of the species of horse, mule, ass, cattle, swine, sheep, or goat; or

(j) Live fish raised for commercial sale with a value of seventy-five dollars; or

(k) Any controlled substance as defined by section 195.010, RSMo; **or**

(l) Ammonium nitrate.

4. If an actor appropriates any material with a value less than one hundred fifty dollars

in violation of this section with the intent to use such material to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues, then such violation is a class D felony. The theft of any amount of anhydrous ammonia or liquid nitrogen, or any attempt to steal any amount of anhydrous ammonia or liquid nitrogen, is a class C felony. The theft of any amount of anhydrous ammonia by appropriation of a tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator is a class A felony.

5. The theft of any item of property or services **[under] pursuant to** subsection 3 of this section which exceeds seven hundred fifty dollars may be considered a separate felony and may be charged in separate counts.

6. Any person with a prior conviction of paragraph (i) of subdivision (3) of subsection 3 of this section and who violates the provisions of paragraph (i) of subdivision (3) of subsection 3 of this section when the value of the animal or animals stolen exceeds three thousand dollars is guilty of a class B felony.

7. Any violation of this section for which no other penalty is specified in this section is a class A misdemeanor.

571.020. 1. A person commits a crime if **[he] such person** knowingly possesses, manufactures, transports, repairs, or sells:

(1) An explosive weapon;

(2) **An explosive, incendiary or poison substance or material with the purpose to possess, manufacture or sell an explosive weapon;**

(3) A machine gun;

[(3)] (4) A gas gun;

[(4)] (5) A short barreled rifle or shotgun;

[(5)] (6) A firearm silencer;

[(6)] (7) A switchblade knife;

[(7)] (8) A bullet or projectile which explodes or detonates upon impact because of an independent explosive charge after having been shot from a firearm; or

[(8)] (9) Knuckles.

2. A person does not commit a crime **[under] pursuant to** this section if his conduct:

(1) Was incident to the performance of official duty by the armed forces, national guard, a governmental law enforcement agency, or a penal institution; or

(2) Was incident to engaging in a lawful commercial or business transaction with an organization enumerated in subdivision (1) of this section; or

(3) Was incident to using an explosive weapon in a manner reasonably related to a lawful industrial or commercial enterprise; or

(4) Was incident to displaying the weapon in a public museum or exhibition; or

(5) Was incident to dealing with the weapon solely as a curio, ornament, or keepsake,

or to using it in a manner reasonably related to a lawful dramatic performance; but if the weapon is a type described in subdivision (1), (3) or (5) of subsection 1 of this section it must be in such a nonfunctioning condition that it cannot readily be made operable. No short barreled rifle, short barreled shotgun, or machine gun may be possessed, manufactured, transported, repaired or sold as a curio, ornament, or keepsake, unless such person is an importer, manufacturer, dealer, or collector licensed by the Secretary of the Treasury pursuant to the Gun Control Act of 1968, U.S.C., Title 18, or unless such firearm is an "antique firearm" as defined in subsection 3 of section 571.080, or unless such firearm has been designated a "collectors item" by the Secretary of the Treasury pursuant to the U.S.C., Title 26, Section 5845 (a).

3. A crime [under] **pursuant to** subdivision (1), (2), (3), (4) [or], (5) **or (6)** of subsection 1 of this section is a class C felony; a crime [under] **pursuant to** subdivision [(6),] (7) [or], (8) or (9) of subsection 1 of this section is a class A misdemeanor.

574.115. 1. A person commits the crime of making a [terroristic] **terrorist** threat if such person communicates a threat to [commit a felony,] **cause an incident or condition involving danger to life, communicates** a knowingly false report [concerning the commission of any felony] **of an incident or condition involving danger to life**, or knowingly [false report concerning the occurrence of any catastrophe] **causes a false belief or fear that an incident has occurred or that a condition exists involving danger to life:**

(1) [For] **With** the purpose of frightening [or disturbing] ten or more people;

(2) [For] **With** the purpose of causing the evacuation, **quarantine** or closure of any **portion of a** building, inhabitable structure, place of assembly or facility of transportation; or

(3) With reckless disregard of the risk of causing the evacuation, **quarantine** or closure of any **portion of a** building, inhabitable structure, place of assembly or facility of transportation; **or**

(4) With criminal negligence with regard to the risk of causing the evacuation, quarantine or closure of any portion of a building, inhabitable structure, place of assembly or facility of transportation.

2. Making a [terroristic] **terrorist** threat is a class C felony unless committed under subdivision (3) of subsection 1 of this section in which case it is a class D felony **or unless committed under subdivision (4) of subsection 1 of this section in which case it is a class A misdemeanor.**

3. [As used in this section:

(1) The term "threat" means an express or implied threat but does not include a report made in good faith for the purpose of preventing harm; and

(2) The term "catastrophe" is defined by section 569.070, RSMo] **For the purpose of this section, "threat" includes an express or implied threat.**

4. A person who acts in good faith with the purpose to prevent harm does not

commit a crime pursuant to this section.

576.080. 1. A person commits the crime of supporting terrorism if such person knowingly provides, attempts to provide, conspires to provide or solicits any person or organization to provide material support to any organization designated as a foreign terrorist organization pursuant to 8 U.S.C. 1189, as amended. It is not an element of the offense that the person know that the organization has been designated as a foreign terrorist organization pursuant to 8 U.S.C. 1189.

2. For the purpose of this section, "material support" includes currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation and other physical assets, except medicine or religious materials.

3. Supporting terrorism is a class C felony.

578.008. 1. A person commits the crime of [spreading disease to livestock or animals] **agroterrorism** if [that] **such** person purposely spreads any type of contagious, communicable or infectious disease among **crops, poultry**, livestock as defined in section 267.565, RSMo, or other animals.

2. [Spreading disease to livestock or animals] Agroterrorism is a class D felony unless the damage to **crops, poultry**, livestock or animals is ten million dollars or more in which case it is a class B felony.

3. It shall be a defense to the crime of [spreading disease to livestock or animals] **agroterrorism** if such spreading is consistent with medically recognized therapeutic procedures **or done in the course of legitimate, professional scientific research.**

Section B. Because of the immediate need for state emergency powers this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and this act shall be in full force and effect upon its passage and approval.