

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILLS NOS. 740, 886 & 1178

92ND GENERAL ASSEMBLY

2004

2456L.06T

AN ACT

To repeal sections 148.330, 263.534, 267.470, 267.472, 267.475, 267.480, 267.485, 267.490, 267.495, 267.500, 267.505, 267.510, 267.515, 267.520, 267.525, 267.531, 267.535, 267.540, 267.545, 267.550, 267.551, 267.552, 267.553, 267.554, 267.555, 267.556, 348.406, 348.412, 348.430, 348.432, and 537.115, RSMo, and to enact in lieu thereof eleven new sections relating to agriculture programs.

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

Section A. Sections 148.330, 263.534, 267.470, 267.472, 267.475, 267.480, 267.485, 267.490, 267.495, 267.500, 267.505, 267.510, 267.515, 267.520, 267.525, 267.531, 267.535, 267.540, 267.545, 267.550, 267.551, 267.552, 267.553, 267.554, 267.555, 267.556, 348.406, 348.412, 348.430, and 348.432, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 148.330, 261.115, 261.256, 261.259, 263.534, 265.475, 348.406, 348.412, 348.430, and 348.432, to read as follows:

148.330. 1. Every such company shall, on or before the first day of March in each year, make a return, verified by the affidavit of its president and secretary, or other authorized officers, to the director of the department of insurance stating the amount of all premiums received on account of policies issued in this state by the company, whether in cash or in notes, during the year ending on the thirty-first day of December, next preceding. Upon receipt of such returns the director of the department of insurance shall verify the same and certify the amount of tax due from the various companies on the basis and at the rates provided in section 148.320, and shall certify the same to the director of revenue together

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

with the amount of the quarterly installments to be made as provided in subsection 2 of this section, on or before the thirtieth day of April of each year.

2. Beginning January 1, 1983, the amount of the tax due for that calendar year and each succeeding calendar year thereafter shall be paid in four approximately equal estimated quarterly installments, and a fifth reconciling installment. The first four installments shall be based upon the tax for the immediately preceding taxable year ending on the thirty-first day of December, next preceding. The quarterly installments shall be made on the first day of March, the first day of June, the first day of September and the first day of December. Immediately after receiving certification from the director of the department of insurance of the amount of tax due from the various companies the director of revenue shall notify and assess each company the amount of taxes on its premiums for the calendar year ending on the thirty-first day of December, next preceding. The director of revenue shall also notify and assess each company the amount of the estimated quarterly installments to be made for the calendar year. If the amount of the actual tax due for any year exceeds the total of the installments made for such year, the balance of the tax due shall be paid on the first day of June of the year following, together with the regular quarterly payment due at that time. If the total amount of the tax actually due is less than the total amount of the installments actually paid, the amount by which the amount paid exceeds the amount due shall be credited against the tax for the following year and deducted from the quarterly installment otherwise due on the first day of June. If the March first quarterly installment made by a company is less than the amount assessed by the director of revenue, the difference will be due on June first, but no interest will accrue to the state on the difference unless the amount paid by the company is less than eighty percent of one-fourth of the total amount of tax assessed by the director of revenue for the immediately preceding taxable year. The state treasurer, upon receiving the moneys paid as a tax upon such premiums to the director of revenue, shall place the moneys to the credit of a fund to be known as "The County Stock Insurance Fund", which is hereby created and established. **The county stock insurance fund shall be included in the calculation of total state revenue pursuant to article X, section 18, of the Missouri Constitution.**

3. If the estimated quarterly tax installments are not so paid, the director of revenue shall certify such fact to the director of the division of insurance who shall thereafter suspend such delinquent company or companies from the further transaction of business in this state until such taxes shall be paid and such companies shall be subject to the provisions of sections 148.410 to 148.461.

4. On or before the first day of September of each year the commissioner of administration shall apportion all moneys in the county stock insurance fund to the general revenue fund of the state, to the county treasurer and to the treasurer of the school district in which the principal office of the company paying the same is located. All premium tax

credits described in sections 135.500 to 135.529, RSMo, and sections 348.430 and 348.432, RSMo, shall only reduce the amounts apportioned to the general revenue fund of the state and shall not reduce any moneys apportioned to any county treasurer or to the treasurer of the school district in which the principal office of the company paying the same is located. Apportionments shall be made in the same ratio which the rates of levy for the same year for state purposes, for county purposes, and for all school district purposes, bear to each other; provided that any proceeds from such tax for prior years remaining on hand in the hands of the county collector or county treasurer undistributed on the effective date of sections 148.310 to 148.460 and any proceeds of such tax for prior years collected thereafter shall be distributed and paid in accordance with the provisions of such sections. Whenever the word "county" occurs herein it shall be construed to include the city of St. Louis.

261.115. Records and documents submitted to the Missouri department of agriculture or Missouri agriculture and small business development authority relating to financial investments in a business, or sales projections or other business plan information that may endanger the competitiveness of a business, except for the amount and recipient of any loan or grant from a program administered by the authority, shall be deemed a "closed record" as such term is defined in section 610.010, RSMo.

261.256. 1. It is hereby established that growers' districts may be voluntarily created by Missouri producers raising agricultural crops for food, feed, industrial, and pharmaceutical uses, to be known by the name established by the creators of the growers' district. Nothing in this section or section 261.259 shall force any private property owner to participate in a growers' district.

2. Upon organization, each district shall file with the clerk of the circuit court in the county in which the majority of the district is located and shall adopt bylaws addressing governance of the district, expansion of the district to include new members, and the exercise of any other powers necessary to effectuate the purposes of this section and section 261.259.

261.259. 1. The members of a district shall elect a board of commissioners of such district.

2. All commissioners of a district shall be owners or operators of land used for the cultivation of commercial crops within the physical boundaries of the district.

263.534. 1. A cotton grower who fails to pay, when due and upon reasonable notice, any assessment levied under sections 263.500 to 263.537, shall be subject to a per-acre penalty as established in the department's regulations, in addition to the assessment.

2. A cotton grower who fails to pay all assessments, including penalties, within thirty days of notice of penalty, shall destroy any cotton plants growing on his acreage which is

subject to the assessment. Any such cotton plants which are not destroyed shall be deemed to be a public nuisance, and such public nuisance may be abated in the same manner as any public nuisance.

3. The department may petition the circuit court of the judicial circuit in which the public nuisance is located to have the nuisance condemned and destroyed with all costs of destroying to be levied against the grower. Injunctive relief shall be available to the department notwithstanding the existence of any other legal remedy, and the department shall not be required to file a bond.

4. In addition to any other remedies for the collection of assessments, including penalties **and interest**, the department [may secure a lien upon cotton subject to such assessments] **shall have an assessment lien that attaches and is perfected sixty days after the date the department mails notice of the assessment and shall cover any cotton crop grown by the grower, including future crops, and the proceeds of the cotton sale, until the assessment, including penalties and interest, is paid in full. The department shall notify the farm service agency and first handlers of cotton, including buyers, lienholders on the cotton, and ginner, of liens attached within thirty days of the date of perfection. This assessment lien is not an agricultural lien for purposes of, and is not subject to the provisions of Article 9 of the Uniform Commercial Code-Secured Transactions, as embodied in sections 400.9-101 to 400.9-508, RSMo.** Such lien shall attach in preference to any prior lien, encumbrance or mortgage upon such cotton.

265.475. The director shall promulgate regulations consistent with and equal to the Federal Meat Inspection Act, the Federal Poultry Products Inspection Act, and all related federal regulations and shall adopt such rules and regulations as necessary to implement the inspection programs authorized under sections 265.300 to 265.470.

348.406. 1. The authority, upon application, may issue certificates of guaranty covering a first loss guarantee up to but not more than [twenty-five] **fifty** percent of the loan on a declining principal basis for loans to eligible borrowers, executing a note or other evidence of a loan made for the purpose of an agricultural business development loan, but not to exceed the amount of two hundred fifty thousand dollars for any eligible borrower and to pay from the fund to an eligible lender up to [twenty-five] **fifty** percent of the amount on a declining principal basis of any loss on any guaranteed loan made pursuant to the provisions of sections 348.400 to 348.415, in the event of default on the loan. Upon payment on the guarantee, the authority shall be subrogated to all the rights of the eligible lender.

2. The authority shall charge for each guaranteed loan a one-time participation fee of one percent which shall be collected by the eligible lender at the time of closing and paid to the authority. In addition, the authority may charge a special loan guarantee fee of up to

one percent per annum of the outstanding principal which shall be collected from the eligible borrower by the eligible lender and paid to the authority.

3. All moneys paid to satisfy a defaulted guaranteed loan shall only be paid out of the fund.

4. The total outstanding guaranteed loans shall at no time exceed an amount which, according to sound actuarial judgment, would allow immediate redemption of **[forty] twenty** percent of the outstanding loans guaranteed by the fund at any one time.

348.412. 1. Eligible borrowers:

(1) Shall use the proceeds of the agricultural business development loan to acquire agricultural property; and

(2) May not finance more than ninety percent of the anticipated cost of the project through the agricultural business development loan.

2. The project shall have opportunities to succeed in the development, expansion and operation of businesses involved in adding value to, marketing, exporting, processing, or manufacturing agricultural products that will benefit the state economically and socially through direct or indirect job creation or job retention.

3. The authority shall promulgate rules establishing eligibility pursuant to the provisions of sections 348.400 to 348.415, taking into consideration:

(1) The eligible borrower's ability to repay the agricultural business development loan;

(2) The general economic conditions of the area in which the agricultural property will be located;

(3) The prospect of success of the particular project for which the loan is sought; and

(4) Such other factors as the authority may establish.

4. The authority may promulgate rules to provide for:

(1) The requirement or nonrequirement of security or endorsement and the nature thereof;

(2) The manner and time of repayment of the principal and interest;

(3) The maximum rate of interest;

(4) The right of the eligible borrower to accelerate payments without penalty;

(5) The amount of the guaranty charge;

(6) The effective period of the guaranty;

(7) The percent of the agricultural business development loan, not to exceed **[twenty-five] fifty** percent, covered by the guaranty;

(8) The assignability of agricultural business development loans by the eligible lender;

(9) Procedures in the event of default on an agricultural business development loan;

(10) The due diligence effort on the part of eligible lenders for collection of guaranteed loans;

(11) Collection assistance to be provided to eligible lenders; and

(12) The extension of the guaranty in consideration of duty in the armed forces, unemployment, natural disasters, or other hardships.

348.430. 1. The tax credit created in this section shall be known as the "Agricultural Product Utilization Contributor Tax Credit".

2. As used in this section, the following terms mean:

(1) "Authority", the agriculture and small business development authority as provided in this chapter;

(2) "Contributor", an individual, partnership, corporation, trust, limited liability company, entity or person that contributes cash funds to the authority;

(3) "Development facility", a facility producing either a good derived from an agricultural commodity or using a process to produce a good derived from an agricultural product;

(4) "Eligible new generation cooperative", a nonprofit cooperative association formed pursuant to chapter 274, RSMo, or incorporated pursuant to chapter 357, RSMo, for the purpose of operating a development facility or a renewable fuel production facility;

(5) "Eligible new generation processing entity", a partnership, corporation, cooperative, or limited liability company organized or incorporated pursuant to the laws of this state consisting of not less than twelve members, approved by the authority, for the purpose of owning or operating within this state a development facility or a renewable fuel production facility in which producer members:

(a) Hold a majority of the governance or voting rights of the entity and any governing committee;

(b) Control the hiring and firing of management; and

(c) Deliver agricultural commodities or products to the entity for processing, unless processing is required by multiple entities;

(6) "Renewable fuel production facility", a facility producing an energy source which is derived from a renewable, domestically grown, organic compound capable of powering machinery, including an engine or power plant, and any by-product derived from such energy source.

3. For **all tax [year] years beginning on or after January 1, 1999**, a contributor who contributes funds to the authority may receive a credit against the tax **or estimated quarterly tax** otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, chapter 148, RSMo, chapter 147, RSMo, in an amount of up to one hundred percent of such contribution. **Tax credits claimed in a taxable year may be done so on a quarterly basis and applied to the estimated quarterly tax pursuant to this subsection. If a quarterly tax credit claim or series of claims contributes to causing an overpayment of taxes for a taxable year, such overpayment shall not be refunded but shall be applied to the next taxable**

year. The awarding of such credit shall be at the approval of the authority, based on the least amount of credits necessary to provide incentive for the contributions. A contributor that receives tax credits for a contribution to the authority shall receive no other consideration or compensation for such contribution, other than a federal tax deduction, if applicable, and goodwill. A contributor that receives tax credits for a contribution provided in this section may not be a member, owner, investor or lender of an eligible new generation cooperative or eligible new generation processing entity that receives financial assistance from the authority either at the time the contribution is made or for a period of two years thereafter.

4. A contributor shall submit to the authority an application for the tax credit authorized by this section on a form provided by the authority. If the contributor meets all criteria prescribed by this section and the authority, the authority shall issue a tax credit certificate in the appropriate amount. Tax credits issued pursuant to this section [shall initially] **may** be claimed in the taxable year in which the contributor contributes funds to the authority. [Any amount of credit that exceeds the tax due for a contributor's taxable year] **For all fiscal years beginning on or after July 1, 2004, tax credits allowed pursuant to this section may be carried back to any of the contributor's three prior tax years and** may be carried forward to any of the contributor's five subsequent taxable years. Tax credits issued pursuant to this section may be assigned, transferred or sold **and the new owner of the tax credit shall have the same rights in the credit as the contributor.** Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the name and address of the new owner of the tax credit or the value of the credit.

5. The funds derived from contributions in this section shall be used for financial assistance or technical assistance for the purposes provided in section 348.407, to rural agricultural business concepts as approved by the authority. The authority may provide or facilitate loans, equity investments, or guaranteed loans for rural agricultural business concepts, but limited to two million dollars per project or the net state economic impact, whichever is less. Loans, equity investments or guaranteed loans may only be provided to feasible projects, and for an amount that is the least amount necessary to cause the project to occur, as determined by the authority. The authority may structure the loans, equity investments or guaranteed loans in a way that facilitates the project, but also provides for a compensatory return on investment or loan payment to the authority, based on the risk of the project.

6. In any given year, at least ten percent of the funds granted to rural agricultural business concepts shall be awarded to grant requests of twenty-five thousand dollars or less. No single rural agricultural business concept shall receive more than two hundred thousand dollars in grant awards from the authority. Agricultural businesses owned by minority

members or women shall be given consideration in the allocation of funds.

348.432. 1. The tax credit created in this section shall be known as the "New Generation Cooperative Incentive Tax Credit".

2. As used in this section, the following terms mean:

(1) "Authority", the agriculture and small business development authority as provided in this chapter;

(2) "Development facility", a facility producing either a good derived from an agricultural commodity or using a process to produce a good derived from an agricultural product;

(3) "Eligible new generation cooperative", a nonprofit cooperative association formed pursuant to chapter 274, RSMo, or incorporated pursuant to chapter 357, RSMo, for the purpose of operating a development facility or a renewable fuel production facility and approved by the authority;

(4) "Eligible new generation processing entity", a partnership, corporation, cooperative, or limited liability company organized or incorporated pursuant to the laws of this state consisting of not less than twelve members, approved by the authority, for the purpose of owning or operating within this state a development facility or a renewable fuel production facility in which producer members:

(a) Hold a majority of the governance or voting rights of the entity and any governing committee;

(b) Control the hiring and firing of management; and

(c) Deliver agricultural commodities or products to the entity for processing, unless processing is required by multiple entities;

(5) "Employee-qualified capital project", an eligible new generation cooperative with capital costs greater than fifteen million dollars which will employ at least **[one hundred] sixty** employees;

(6) "Large capital project", an eligible new generation cooperative with capital costs greater than one million dollars;

(7) "Producer member", a person, partnership, corporation, trust or limited liability company whose main purpose is agricultural production that invests cash funds to an eligible new generation cooperative or eligible new generation processing entity;

(8) "Renewable fuel production facility", a facility producing an energy source which is derived from a renewable, domestically grown, organic compound capable of powering machinery, including an engine or power plant, and any by-product derived from such energy source;

(9) "Small capital project", an eligible new generation cooperative with capital costs of no more than one million dollars.

3. Beginning tax year 1999, and ending December 31, 2002, any producer member

who invests cash funds in an eligible new generation cooperative or eligible new generation processing entity may receive a credit against the tax **or estimated quarterly tax** otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, or chapter 148, RSMo, chapter 147, RSMo, in an amount equal to the lesser of fifty percent of such producer member's investment or fifteen thousand dollars.

4. For all tax years beginning on or after January 1, 2003, any producer member who invests cash funds in an eligible new generation cooperative **or eligible new generation processing entity** may receive a credit against the tax **or estimated quarterly tax** otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, chapter 147, RSMo, or chapter 148, RSMo, in an amount equal to the lesser of fifty percent of such producer member's investment or fifteen thousand dollars. **Tax credits claimed in a taxable year may be done so on a quarterly basis and applied to the estimated quarterly tax pursuant to subsection 3 of this section.** ~~If a quarterly tax credit claim or series of claims contributes to causing an overpayment of taxes for a taxable year, such overpayment shall not be refunded but shall be applied to the next taxable year.~~

5. A producer member shall submit to the authority an application for the tax credit authorized by this section on a form provided by the authority. If the producer member meets all criteria prescribed by this section and is approved by the authority, the authority shall issue a tax credit certificate in the appropriate amount. Tax credits issued pursuant to this section [shall initially be claimed in the taxable year in which the producer member contributes capital to an eligible new generation cooperative or eligible new generation processing entity. Any amount of credit that exceeds the tax due for a producer member's taxable year] may be carried back to any of the producer member's three prior taxable years and carried forward to any of the producer member's five subsequent taxable years **regardless of the type of tax liability to which such credits are applied as authorized pursuant to subsection 3 of this section.** Tax credits issued pursuant to this section may be assigned, transferred, sold or otherwise conveyed and the new owner of the tax credit shall have the same rights in the credit as the producer member. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the name and address of the new owner of the tax credit or the value of the credit.

6. Ten percent of the tax credits authorized pursuant to this section initially shall be offered in any fiscal year to small capital projects. If any portion of the ten percent of tax credits offered to small capital costs projects is unused in any calendar year, then the unused portion of tax credits may be offered to employee-qualified capital projects and large capital projects. If the authority receives more applications for tax credits for small capital projects

than tax credits are authorized therefor, then the authority, by rule, shall determine the method of distribution of tax credits authorized for small capital projects.

7. Ninety percent of the tax credits authorized pursuant to this section initially shall be offered in any fiscal year to employee-qualified capital projects and large capital projects. If any portion of the ninety percent of tax credits offered to employee-qualified capital projects and large capital costs projects is unused in any fiscal year, then the unused portion of tax credits may be offered to small capital projects. The maximum tax credit allowed per employee-qualified capital project is three million dollars and the maximum tax credit allowed per large capital project is one million five hundred thousand dollars. If the authority approves the maximum tax credit allowed for any employee-qualified capital project or any large capital project, then the authority, by rule, shall determine the method of distribution of such maximum tax credit. In addition, if the authority receives more tax credit applications for employee-qualified capital projects and large capital projects than the amount of tax credits authorized therefor, then the authority, by rule, shall determine the method of distribution of tax credits authorized for employee-qualified capital projects and large capital projects.

Section B. Section 537.115, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 537.115, to read as follows:

537.115. 1. As used in this section, the following terms mean:

(1) "Canned food", any food commercially processed and prepared for human consumption;

(2) "Perishable food", any food which may spoil or otherwise become unfit for human consumption because of its nature, type or physical condition.

This term includes, but is not limited to, fresh and processed meats, poultry, seafood, dairy products, bakery products, eggs in the shell, fresh fruits and vegetables, and foods which have been packaged, refrigerated, or frozen.

2. All other provisions of law notwithstanding, a good faith donor of canned or perishable food, which complies with chapter 196, RSMo, at the time it was donated and which is fit for human consumption at the time it is donated, to a bona fide charitable or not-for-profit organization for free distribution, shall not be subject to criminal or civil liability arising from an injury or death due to the condition of such food unless such injury or death is a direct result of the negligence, recklessness or intentional misconduct of such donor.

3. All other provisions of law notwithstanding, a bona fide charitable or not-for-profit organization which in good faith receives and distributes food, which complies with chapter 196, RSMo, at the time it was donated and which is fit for human consumption at the time it is distributed, without charge, shall not be subject to criminal or civil liability arising from an injury or death due to the condition of such food unless such injury or death is a direct

result of the negligence, recklessness, or intentional misconduct of such organization.

4. Notwithstanding any other provision of law to the contrary, a good faith donor or a charitable or not-for-profit organization, who in good faith receives or distributes frozen and packaged venison without charge, shall not be subject to criminal or civil liability arising from an injury or death due to the condition of such food, except as provided in this subsection. The venison must:

(1) Come from a whitetail deer harvested in accordance with the rules and regulations of the department of conservation;

(2) Be field dressed and handled in a sanitary manner and the carcass of which remains in sound condition;

(3) Be processed in a licensed facility that is subject to the United States Department of Agriculture's mandated inspections during domesticated animal operations **or is approved by the Missouri department of agriculture meat inspection program.**

Except that, the provisions of this subsection shall not apply if the injury or death is a direct result of the negligence, recklessness or intentional misconduct of such donor or the deer was harvested during a season that the deer in Missouri were found to have diseases communicable to humans. Venison handled and processed in accordance with the provisions of this section and protected by all reasonable means from foreign or injurious contamination is exempt from the provisions of chapter 196, RSMo.

5. The provisions of this section shall govern all good faith donations of canned or perishable food which is not readily marketable due to appearance, freshness, grade, surplus or other conditions, but nothing in this section shall restrict the authority of any appropriate agency to regulate or ban the use of such food for human consumption.

[267.470. Unless otherwise indicated by the context, when used in sections 267.470 to 267.550, the following terms have the following meanings:

(1) "Accredited approved veterinarian" means a veterinarian who has been accredited by the United States Department of Agriculture and approved by the state department of agriculture and who is duly licensed under the laws of Missouri to engage in the practice of veterinary medicine, or a veterinarian domiciled and practicing veterinary medicine in a state other than Missouri, duly licensed under the laws of the state in which he resides, accredited by the United States Department of Agriculture, and approved by the chief livestock sanitary official of that state;

(2) "Animal" means an animal of the bovine species;

(3) "Approved vaccine" or "vaccine" means vaccine containing brucella microorganisms produced under license of the United States Department of Agriculture and approved by the department for the immunization of animals against brucellosis;

(4) "Bovine brucellosis" or "brucellosis" means the disease wherein an animal of the bovine species is infected with brucella microorganisms, irrespective of the occurrence or absence of clinical symptoms of the disease;

(5) "Cattle" means animals of the bovine species;

(6) "Certified brucellosis free herd" means a herd of cattle which has met the requirements and conditions set forth in sections 267.470 to 267.550 for such status, or a herd of cattle in another state which has met those minimum requirements and conditions under the supervision of the livestock sanitary authority of the state in which said cattle are domiciled and as recommended by the United States Department of Agriculture for such status;

(7) "Commercial feeder" means any person, association, partnership or corporation maintaining premises wherein cattle of various classes are held for various feeding periods and after such period are moved to a recognized and approved slaughtering establishment or consigned to a public stockyards market under federal inspection service or a licensed market approved for the handling of such cattle and are sold for slaughter purposes only;

(8) "Department" or "department of agriculture" means the department of agriculture of the state of Missouri, and when by this law the said department of agriculture is charged to perform a duty it shall be understood to authorize the performance of such duty by the director of the department of agriculture of the state of Missouri or his duly authorized deputies, acting under the supervision of the director of the department of agriculture;

(9) "Infected animal" or "reactor" means an animal which has shown a positive reaction to the agglutination test or any other recognized test for the detection of bovine brucellosis approved by the department or if "brucella organisms" are found in the body discharges or secretions of such animal or when a previous abortion history of the animal justifies designating such animal as a reactor, with or without a positive reaction to the test;

(10) "Isolated" or "isolation" means the condition in which cattle are quarantined to a certain designated premise and maintained separately and apart from any other cattle on the premise or from cattle on adjacent premises;

(11) "Livestock sale or market" means a sale or market as defined in and licensed under chapter 277, RSMo;

(12) "Milk ring test" means a test made by using the standardized suspension of milk ring test antigen of killed brucella microorganisms in combination with proper amounts of whole milk or cream produced by a particular herd of cattle;

(13) "Modified certified brucellosis free area" means an area which has

met the requirements and conditions set forth in sections 267.470 to 267.550 for such status, or an area in another state which has met those minimum requirements and conditions under the supervision of the livestock sanitary authority of the state in which such area is located and as recommended by the United States Department of Agriculture for such status;

(14) "Plan A" means test-and-slaughter, with or without calfhood vaccination, under provisions of the law;

(15) "Plan B" means testing and calfhood vaccination, with temporary retention of reactors for not longer than three years and until they can be disposed of for slaughter, under provisions of the law;

(16) "Plan C" means calfhood vaccination without test of any part of the herd and the plan is confined to those herds in which movement of animals is restricted to special permits issued by the department;

(17) "Plan D" means adult vaccination to be practiced in cases of emergency, with the approval of the department;

(18) "Public stockyards" means any public stockyards located within the state of Missouri and subject to regulations under the provisions of the Packers and Stockyards Act enacted by Congress of the United States;

(19) "Quarantine" means the condition in which cattle or other species of animals are restricted in movement and to a particular premise under such terms and conditions as may be designated in the order by the department;

(20) "Test for brucellosis" means a test recognized by the United States Department of Agriculture in the diagnosis of brucellosis.]

[267.472. 1. Premises maintained and operated by a commercial feeder for feeding purposes shall, when so used, be under a continuous state of quarantine and breeding animals shall not be maintained on such premises.

2. Surface drainage and any contact with cattle on adjacent premises shall be controlled in a manner designated by the state veterinarian or his representative when deemed necessary for the protection of breeding animals on the adjacent premises.

3. Commercial feeders shall make application for a permit from the department and if issued by the department may then purchase untested nonbred female cattle under the permit from any licensed market, terminal stockyards market or producer within the state for feeding purposes.

4. The department may suspend or revoke the permit for any violation of this chapter or of the rules and regulations of the department.

5. Commercial feeders shall retain all incoming permits, waybills, bills of lading, conductors' manifests, health certificates, and copies of all outgoing

permits, certificates, waybills and bills of lading. Permission to enter the premises of a commercial feeder shall be granted to a duly authorized agent of the department or of the United States Department of Agriculture. The books and records of all commercial feeders shall be exhibited to such authorized persons upon demand; provided further, that all incoming and outgoing permits and bills of lading shall be surrendered to each authorized person upon demand. Complete books relating to a commercial feeding operation shall be kept in a current manner.

6. The state veterinarian may elect to discontinue the practice of licensing quarantined commercial feedlots if their existence conflicts with other disease eradication requirements.]

[267.475. 1. The department is authorized and directed to cooperate with the United States Department of Agriculture and other agencies and departments of the state of Missouri in the suppression, eradication and control of bovine brucellosis in this state.

2. The department is authorized and empowered to make and adopt rules and regulations for the administration and enforcement of sections 267.470 to 267.550, and may waive the signing of individual agreements by cattle owners on areawide or countywide control and eradication programs.

3. The department in performing the duties and exercising the powers vested in it under sections 267.470 to 267.550 is empowered to enter, during usual working hours, any premises, barns, stables, sheds, vehicles, or other places where cattle are kept, or plants where milk or cream is received or collected, for the purpose of administering and enforcing the provisions of sections 267.470 to 267.550.]

[267.480. The department is hereby authorized, upon request to supply brucella vaccine, and to employ the services of veterinarians, in cooperation with the United States Department of Agriculture, to administer such vaccine to, and conduct blood tests on, animals, owned by any person or persons in the state of Missouri, who having first signified, in writing, their intention to cooperate with the department and the United States Department of Agriculture, by signing an agreement to qualify his herd as a brucellosis certified free herd or to participate in the program for the control and eradication of brucellosis, under plan A, B, C, or D, as approved by the state and federal departments of agriculture. Such vaccine and veterinary service and testing shall be furnished without expense to the owner, as long as funds are available for that purpose.]

[267.485. Official calfhood vaccination for brucellosis shall mean that

such animals are vaccinated with an approved vaccine when such animal is of an age as may be fixed by rules and regulations of the department. Such vaccination shall be administered by an accredited veterinarian in good standing, approved by the department, who shall execute and give the owner a certificate in a form approved by the department, certifying an identification of the animal or animals, their age, the serial number of the vaccine, the expiration of the effective date of the vaccine, the dosage used, and if the animal or animals were tested for brucellosis prior to the vaccination, the result of such test. Grade animals vaccinated in compliance with this section shall be permanently identified by a tattoo symbol and a vaccination tag, both as approved by the department, and such tags may be provided at cost by the department. Registered animals shall be identified by the registration tattoo, or the registration name and number of such animal.]

[267.490. 1. The department is hereby authorized to pay, within the limit of its appropriations, an indemnity in the manner and in the amounts herein set forth to the owner of any cattle carrying on an approved brucellosis control program in his herd, in order to reimburse such owner for a part of the loss suffered by such owner in disposing of the cattle exposed to, infected with, or reacting to a test for brucellosis.

2. The value of any cattle on which an indemnity is sought by the owner thereof shall not exceed an amount recognized by the state veterinarian and the owner as just compensation in relation to current market conditions, breeding value and other criteria of valuation for the animal destroyed. Each animal destroyed shall be identified separately on the appraisal form. The appraisal form shall be made out in triplicate, and one copy sent to the department, one copy retained by the duly authorized agent, and one copy retained by the owner.

3. Any such cattle on which an indemnity is sought shall be kept in isolation and within fifteen days of identification or branding shall be sold for slaughter and a report of the net proceeds (being the total amount received less expense of transportation, commissions and other expense of such sale) derived from the sale of such infected or reactor cattle shall be delivered by the owner to the department. The department shall determine the owner's loss by deducting the amount of the net proceeds so derived by the sale of the cattle for slaughter from the appraised value.

4. The indemnity to be paid by the department shall be an amount set at the discretion of the state veterinarian and shall not exceed breeding value of the animal. The department shall certify to the state commissioner of

administration the amount to be paid by the department, and such amount shall constitute a legal claim against the state within the limits of available appropriations, and the commissioner of administration shall approve the same and cause the same to be paid by issuing his warrant on the state treasurer therefor in payment to such owner.

5. Indemnity for animals slaughtered as reactors or as infected cattle shall be paid to the owner thereof, only if the owner cooperates with the department, if requested by the state veterinarian or his agent, in carrying out recommended practices in eradicating the disease from his animals.

6. No indemnity shall be paid if, in the judgment of the state veterinarian, the animal does not qualify for indemnity or the owner is ineligible for payments.]

[267.495. Every person conducting agglutination tests shall execute, in triplicate, a certificate on each test made, in the form to be prescribed by the department and one copy of said certificate of test shall be mailed or delivered to the department, and one copy shall be delivered to the owner of the animal tested, and one copy shall be retained by the person conducting the test and executing the certificate. If the animal tested shows a positive reaction to the agglutination test, the person conducting the test shall brand and tag such animal as required by rules and regulations of the department.]

[267.500. 1. No person shall operate or conduct a laboratory in this state for the purpose of making agglutination tests, nor shall any person make such tests, without first securing from the department a permit to do so. The application for such permit shall be on a form prescribed by the department and shall set forth the name of the applicant and, if a corporation, the names of its principal officers, the location where such laboratory will be conducted, such tests made and the records thereof kept, a brief description of the training and experience of the applicant or the person in charge of making such tests, and such other information as the department may require to enable the department to determine the responsibility, qualifications and ability of the applicant to make agglutination tests.

2. If the department finds that the applicant is responsible and appears to be qualified to make such tests, it shall issue a permit to the applicant. Such permit shall be issued for the period ending on the following June thirtieth, and shall be renewable from year to year on like application.

3. Each person holding a permit to conduct such a laboratory and make such tests shall keep a record of all tests so made, including the name and address of the person for whom the tests were made, and shall report to the

department the results of all tests made for persons or upon cattle located in this state. Such reports shall be made upon forms to be provided by the department and at such times as are required by sections 267.470 to 267.550 or by rules and regulations of the department.

4. If the department finds that any applicant for permit is not responsible or is not qualified to make tests, it may refuse to issue a permit or to renew a permit. If the department finds that any person holding a permit is not correctly reporting the results of the tests made by such persons or if such persons shall fail to report the results of the tests made to the department, as herein required, the department may revoke such permit or may refuse to renew any such permit.]

[267.505. 1. All cattle eight months of age or over entering Missouri from any point outside the state and all cattle eight months of age or over exchanged, bartered or offered for sale or transported within the state of Missouri must have passed a negative test for brucellosis, conducted in an approved laboratory within thirty days prior to entry or within thirty days prior to sale, exchange, barter or being transported within the state. The state veterinarian may eliminate the test requirements on certain groups or classes of animals by specific regulations.

2. All cattle entering Missouri from any point outside the state shall be accompanied by an official health certificate stating that all animals listed thereon have passed a negative blood test for brucellosis within the previous thirty days or showing that they are eligible for entry into Missouri in accordance with the regulations of the department. All other shipments within the state must be accompanied by official certification of tests, vaccinations, health certificate, permits or waybills, which properly identify all the animals in the shipment or as otherwise specified in the regulations of the department.]

[267.510. A "certified brucellosis free herd" is one which has qualified for such status as herein provided. Any herd owner desiring such status must file a signed application and agreement form with the department. The department shall authorize the necessary tests in order to qualify or requalify for such status.

(1) A herd may be certified as brucellosis free when it has met all the requirements for qualifications as set out in current uniform methods and rules of the Animal and Plant Health Inspection Service of the U.S.D.A. and as required by the United States Department of Agriculture and the state department of agriculture.

(2) The certification of a herd may be extended for another year when the herd retest requirements as outlined by current department regulations have been met.

(3) "Certified brucellosis free herd" certificates which shall be valid for one year, unless revoked, will be issued by cooperating state and federal officials, to owners whose herd meets the provisions of sections 267.470 to 267.550.]

[267.515. A "modified certified brucellosis free area" may be established as provided in this section.

(1) If sixty-five percent or more of the cattle owners within an area owning sixty-five percent of the cattle in such area sign a petition requesting eradication of brucellosis on an areawide basis, and the petition is filed with the department, then all cattle owners within such area shall be required to inaugurate and carry out brucellosis control plan A.

(2) All persons responsible for obtaining signatures of cattle owners on the petitions shall submit therewith an affidavit certifying that the petitions are true and accurate as witnessed, and the petitions shall be filed with the department along with an affidavit of the county clerk of the county that the petitions contain the names of not less than sixty-five percent of the cattle owners owning sixty-five percent of the cattle within the area as disclosed by the last assessment rolls of the one or more townships therein.

(3) When the last complete test of all herds within an area indicates that the number of reactors, exclusive of officially calfhood vaccinated animals under thirty months of age and steers and spayed heifers of any age, does not exceed one percent and the herd infection does not exceed five percent, the area may be declared a "modified certified brucellosis free area" for a period of three years. Infected herds shall be quarantined until they have tested sufficiently as outlined in current brucellosis eradication regulations.

(4) The certification of an area may be extended when requirements, as jointly agreed upon by the United States Department of Agriculture and the state department of agriculture, are being carried out.

(5) The department may require the testing of all eligible cattle leaving a public stockyards market, licensed market and dealers premises for the purpose of screening beef type herds and for determining the level or rate of infection for the respective area of origin. If the total of the cattle screened or tested for the area is insufficient, then sufficient additional measures may be required by the department, including testing of herds at the farm level. The consignor of cattle shall, immediately upon delivery to a market, furnish the

correct name and address of the owner of the herd or herds of origin, the county or other point of origin for all cattle in the consignment, and all dealers shall maintain records which provide such information in order to facilitate the proper screening of the herds of origin, and for the recertification of an area. Market operators and dealers shall make such information available to a representative of the department upon demand and to the veterinarian charged with testing of such cattle.

(6) The department is hereby granted the authority to enter all milk or dairy plants and cream buying stations for the purpose of collecting milk or cream for the conduct of the milk ring test. Operators of all such milk plants and cream buying stations shall maintain accurate records of all herd owners selling milk or cream to their plant and shall maintain an individual milk sample for the department on all milk collected in bulk, and shall make such information available to a representative of the department upon demand.

(7) Cattle which have passed a negative test for brucellosis shall be maintained separate and apart from any other untested cattle when such cattle are to be offered for sale, barter, exchange or movement within thirty days from date of the test.

(8) "Area" as used in this section shall include one or more townships in any county.

(9) When the livestock owners in ninety or more counties have petitioned the department for the eradication of brucellosis on an areawide basis under the provisions of plan A, all cattle owners in the remaining counties in the state shall be required to inaugurate and carry out brucellosis eradication plan A upon notice from the department.]

[267.520. The owner of cattle which are under quarantine shall comply with all rules and regulations adopted by the department relating to the quarantine of cattle and with all orders issued by the department pertaining to the sale, movement, transfer or transportation of such cattle. Cattle under quarantine may be sold, transferred or transported only upon a permit issued by the department; provided that infected or reactor cattle under quarantine shall not be sold, moved, or transported for any purpose except on a permit issued by the department.]

[267.525. Notwithstanding any provision in any of sections 267.470 to 267.550, the department shall allow and permit the owner of any animal which is found to be a reactor, to retain such animal in quarantine and use the animal for breeding purposes in his own herd, where necessary or desirable in order to preserve valuable breeding cattle; but the permission shall not be

granted if the state veterinarian determines that the eradication program would be adversely affected and permission shall not be granted unless the United States Department of Agriculture agrees that county brucellosis status will not be affected. Such reactor animal may not be sold, transferred, or moved except on a special permit issued by the department.]

[267.531. 1. Cattle which are held, moved or transported in violation of the provisions of sections 267.470 to 267.550, or the rules and regulations adopted hereunder, on order of the department of agriculture shall be seized and taken into custody by an authorized agent of the department of agriculture or by any state or county law enforcement officer at the request of the department. The order, together with a notice stating the reasons for the seizure and the rights of the owner under this section, shall be served upon the custodian at the time of seizure and copies thereof shall be mailed to the owner, if a person other than the custodian, by certified mail to his address as given by the custodian within twenty-four hours after the seizure. The department shall impound and hold all cattle seized and taken into custody at the owner's expense and without liability to the department. Any cattle so seized and impounded may be redeemed by the owner and released to him by the department, provided that all such animals shall have been tested for brucellosis and any reactors shall be tagged and branded or tagged as provided by law at the owner's expense. In order to redeem such cattle the owner shall pay all expenses including the care and feeding of such cattle and the expense of testing and branding. Any reactor cattle shall be consigned by the owner to slaughter upon redemption thereof.

2. Any person aggrieved by an order of seizure and impoundment may appeal therefrom by filing with the director of the department of agriculture a petition stating in detail his objections to the order, within five days after service or mailing of the order and notice. The director, or his authorized agent, within forty-eight hours of the filing of the appeal, shall hold a hearing to determine the validity of the order and shall either affirm the order or release the cattle. The hearing shall be conducted and judicial review of the director's decision may be had in the manner provided by chapter 536, RSMo. If an order of seizure and impoundment is determined to be invalid, the expense of caring for the cattle and the cost of the proceedings shall be borne by the department of agriculture.

3. If the cattle are not redeemed by the owner, and if no appeal is taken within five days after service or mailing of the notice and order of seizure, the department may apply to the circuit court of any county in which

the cattle are impounded and the department under court order shall sell the cattle for slaughter and deduct from the net proceeds thereof all expenses of the department in connection with the seizure and impoundment of the cattle and remit the balance to the owner.]

[267.535. In addition to the remedies provided for in sections 267.470 to 267.550 or by law, the prosecuting attorney of any county in which a violation of any provision of sections 267.470 to 267.550 occurs or the attorney general of the state is hereby authorized to apply to any court of competent jurisdiction for, and such court shall have jurisdiction upon hearing and for cause shown to grant, a temporary or permanent injunction to restrain any person from violating any provision of sections 267.470 to 267.550.]

[267.540. Any person who shall knowingly or willfully make any false certificate or falsify any statement in any certificate provided for in sections 267.470 to 267.550 shall be deemed guilty of a misdemeanor, and upon conviction shall be punished as provided by law.]

[267.545. Any person violating any provision of sections 267.470 to 267.550 shall be deemed guilty of a misdemeanor, and upon conviction shall be punished as provided by law.]

[267.550. Sections 267.470 to 267.550 shall be cited as "The Missouri Brucellosis Control and Eradication Law".]

[267.551. As used in sections 267.551 to 267.556, the following terms shall mean:

(1) "Accredited and approved veterinarian", a veterinarian who has been accredited by the United States Department of Agriculture and approved by the department of agriculture of this state and who is duly licensed under the laws of this state to engage in the practice of veterinary medicine;

(2) "Bovine", male and female cattle or buffalo;

(3) "Director", the director of the department of agriculture of this state;

(4) "Official calfhood vaccinate", female cattle of any breed or female bison vaccinated while legal age by a veterinary services veterinarian, state veterinarian, or an accredited veterinarian with brucella abortus strain 19 vaccine;

(5) "Quarantined feedlot", a confined area under official state quarantine and approved jointly by the director of the department of agriculture and officials of the United States Federal Animal Health Office where all animals are to be classified as exposed to brucellosis;

(6) "'S' branded cattle", cattle which have been identified by branding

with a hot iron bearing the letter "S" to be placed on the left jaw with a letter at least two inches high by two inches wide;

(7) "Spay", sterilization of a female animal by removal of the ovaries.]

[267.552. 1. Brucella abortus vaccine shall be administered to all required animals in accordance with a method to be approved by the Missouri department of agriculture in rules and regulations to be issued by the director as otherwise provided by law.

2. The director shall issue rules and regulations regarding the required use and sale of brucella abortus vaccine. The vaccine shall only be sold to accredited and approved veterinarians who have completed a training program sponsored by the director on the use of the vaccine.

3. The director shall issue a health certificate of compliance for those animals treated pursuant to the provisions of sections 267.551 to 267.556.

4. The director, at his discretion, may rescind the provisions of sections 267.551 to 267.556 as they pertain to calfhood vaccination if the state of Missouri has maintained a class "A" status for a period of two years, as such term is defined by rules and regulations provided by the United States Department of Agriculture. However, in the event this state cannot maintain a class "A" status, and goes back to a class "B" status, then the provisions of sections 267.551 to 267.556 shall be in full force.]

[267.553. All female bovine born after January 1, 1984, and having reached the age of four months, except those animals from a certified brucellosis free herd as defined under section 267.510, shall be vaccinated as required by the director, spayed, or "S" branded prior to transfer of ownership. Such animals may move directly from a farm of origin to an approved market where the provisions of sections 267.551 to 267.556 will be complied with prior to the release of such animals from the market. Any nonvaccinated female bovine born before January 1, 1984, may, after normal testing procedures, be sold within the state. Finished fed heifers which have not been vaccinated in accordance with the provisions of sections 267.551 to 267.556, but that are moving through cattle market channels directly to slaughter, shall be exempt from the "S" branding or spaying requirement. "S" branded cattle shall only be moved to a quarantined feedlot or through cattle market channels directly to slaughter. Animals being moved from this state in interstate commerce shall be exempt from the provisions of sections 267.551 to 267.556, but shall satisfy all requirements of the state of destination. Any calves or cows brought into this state shall meet the same calfhood vaccination requirement that applies to calves and cows raised in this state. Health

certificates shall be issued by the director only for calves and cows that satisfy the requirements of calfhood vaccination and to nonvaccinated calves and cows meeting the requirements of a certified brucellosis free herd as provided under section 267.510.]

[267.554. Notwithstanding the other provisions of sections 267.551 to 267.556, the director shall be empowered to require the use of another type of vaccine developed after January 1, 1984, found to be more effective than the vaccine, brucella abortus.]

[267.555. 1. Notwithstanding any other provision of sections 267.551 to 267.556, any legally qualified heir or heirs who receive an interest in any female bovine from a decedent's estate or who receives a controlling interest in such livestock as the result of a death, and if said heir or heirs, or said heir or heirs' legal representative make provisions to sell such livestock herd in its entirety, such livestock shall be exempt from the provisions of section 267.553 if said livestock shall pass two successive tests as defined under chapter 267, given at least sixty days apart for the detection of the disease, brucellosis.

2. The director shall issue a health certificate of compliance for such livestock herds that favorably pass such testing.

3. If such animals shall fail testing procedures prescribed by the director, such livestock shall be treated equally with other animals that fail such testing procedures.]

[267.556. To be eligible for an indemnity payment under section 267.490, the owner of cattle for which the indemnity is sought must comply with the provisions of sections 267.551 to 267.556.]

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President of the Senate

Speaker of the House of Representatives

Governor