

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

SENATE BILL NO. 355

93RD GENERAL ASSEMBLY

2005

1623L.08T

AN ACT

To repeal sections 142.029, 142.031, 142.815, 144.010, 144.030, 246.005, 261.241, 265.300, 267.565, 276.606, 277.020, 277.200, 281.040, 311.554, 348.430, and 414.433, RSMo, and to enact in lieu thereof thirty-two new sections relating to agriculture, with an emergency clause for a certain section.

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

Section A. Sections 142.029, 142.031, 142.815, 144.010, 144.030, 246.005, 261.241, 265.300, 267.565, 276.606, 277.020, 277.200, 281.040, 311.554, 348.430, and 414.433, RSMo, are repealed and thirty-two new sections enacted in lieu thereof, to be known as sections 142.029, 142.031, 142.815, 144.010, 144.030, 196.291, 246.005, 261.241, 262.820, 262.823, 262.826, 262.829, 262.832, 262.835, 262.838, 262.841, 262.844, 262.847, 262.850, 262.853, 262.856, 262.859, 265.300, 267.565, 268.063, 276.606, 277.020, 277.200, 281.040, 311.554, 348.430, and 414.433, to read as follows:

142.029. [1. Section 142.027 shall become effective only if the normal federal-aid funds apportioned to Missouri under the Federal-Aid Highway Act of 1987 exceed the eighty-five percent minimum guarantee as defined in Section 124 of that act. Section 142.027 shall become effective on July first of the year following the federal fiscal year for which the funds were apportioned.

2. Section 142.028 shall become effective July 1, 1989.

3. Section 142.027 shall expire on June 30, 1996.] Section 142.028 shall expire on December 31, [2007] **2015**.

142.031. 1. As used in this section the following terms shall mean:

(1) "Biodiesel", fuel as defined in ASTM Standard D-6751 or its subsequent standard

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

specifications for biodiesel fuel (B100) blend stock for distillate fuels;

(2) "Qualified biodiesel producer", a facility that produces biodiesel, is registered with the United States Environmental Protection Agency according to the requirements of 40 CFR 79, and at least fifty-one percent is owned by agricultural producers actively engaged in agricultural production for commercial purposes.

2. The "Missouri Qualified Biodiesel Producer Incentive Fund" is hereby created and subject to appropriations [with funds, other than general revenue funds,] shall be used to provide economic subsidies to Missouri qualified biodiesel producers pursuant to this section. The director of the department of agriculture shall administer the fund pursuant to this section.

3. A Missouri qualified biodiesel producer shall be eligible for a monthly grant from the fund **provided that fifty-one percent of the feedstock originates in the state of Missouri and that one hundred percent of the feedstock originates in the United States.** A Missouri qualified biodiesel producer shall only be eligible for the grant for a total of sixty months **unless such producers during the sixty months fail, due to a lack of appropriations, to receive the full amount from the fund for which the producers were eligible, in which case such producers shall continue to be eligible for up to twenty-four additional months or until they have received the maximum amount of funding for which such producers were eligible during the original sixty-month time period.** The amount of the grant is determined by calculating the estimated gallons of qualified biodiesel produced during the preceding month from Missouri agricultural products, as certified by the department of agriculture, and applying such figure to the per-gallon incentive credit established in this subsection. Each Missouri qualified biodiesel producer shall be eligible for a total grant in any fiscal year equal to thirty cents per gallon for the first fifteen million gallons of qualified biodiesel produced from Missouri agricultural products in the fiscal year **plus ten cents per gallon for the next fifteen million gallons of qualified biodiesel produced from Missouri agricultural products in the fiscal year.** All such qualified biodiesel produced by a Missouri qualified biodiesel producer in excess of [fifteen] **thirty million** gallons shall not be applied to the computation of a grant pursuant to this subsection. The department of agriculture shall pay all grants for a particular month by the fifteenth day after receipt and approval of the application described in subsection 4 of this section.

4. In order for a Missouri qualified biodiesel producer to obtain a grant from the fund, an application for such funds shall be received no later than fifteen days following the last day of the month for which the grant is sought. The application shall include:

(1) The location of the Missouri qualified biodiesel producer;

(2) The average number of citizens of Missouri employed by the Missouri qualified biodiesel producer in the preceding month, if applicable;

(3) The number of bushel equivalents of Missouri agricultural commodities used by the Missouri qualified biodiesel producer in the production of biodiesel in the preceding month;

(4) The number of gallons of qualified biodiesel the producer manufactures during the month for which the grant is applied;

(5) A copy of the qualified biodiesel producer license required pursuant to subsection 5 of this section, name and address of surety company, and amount of bond to be posted pursuant to subsection 5 of this section; and

(6) Any other information deemed necessary by the department of agriculture to adequately ensure that such grants shall be made only to Missouri qualified biodiesel producers.

5. The director of the department of agriculture, in consultation with the department of revenue, shall promulgate rules and regulations necessary for the administration of the provisions of this section.

6. 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.

142.815. 1. Motor fuel used for the following nonhighway purposes is exempt from the fuel tax imposed by this chapter, and a refund may be claimed by the consumer, except as provided for in subsection (1) of this section, if the tax has been paid and no refund has been previously issued:

(1) Motor fuel used for nonhighway purposes including fuel for farm tractors or stationary engines owned or leased and operated by any person and used exclusively for agricultural purposes **and including, beginning January 1, 2006, bulk sales of one hundred gallons or more of gasoline made to farmers and delivered by the ultimate vender to a farm location for agricultural purposes only. As used in this section, the term "farmer" shall mean any person engaged in farming in an authorized farm corporation, family farm, or family farm corporation as defined in section 350.010, RSMo.** At the discretion of the ultimate vender, the refund may be claimed by the ultimate vender on behalf of the consumer for sales made to farmers and to persons engaged in construction for agricultural purposes as defined in section 142.800. After December 31, 2000, the refund may be claimed only by the consumer and may not be claimed by the ultimate vender **unless bulk sales of gasoline are made to a farmer after January 1,**

2006, as provided in this subdivision and the farmer provides an exemption certificate to the ultimate vender, in which case the ultimate vender may make a claim for refund under section 142.824 but shall be liable for any erroneous refund;

(2) Kerosene sold for use as fuel to generate power in aircraft engines, whether in aircraft or for training, testing or research purposes of aircraft engines;

(3) Diesel fuel used as heating oil, or in railroad locomotives or any other motorized flanged-wheel rail equipment, or used for other nonhighway purposes other than as expressly exempted pursuant to another provision.

2. Subject to the procedural requirements and conditions set out in this chapter, the following uses are exempt from the tax imposed by section 142.803 on motor fuel, and a deduction or a refund may be claimed:

(1) Motor fuel for which proof of export is available in the form of a terminal-issued destination state shipping paper and which is either:

(a) Exported by a supplier who is licensed in the destination state or through the bulk transfer system;

(b) Removed by a licensed distributor for immediate export to a state for which all the applicable taxes and fees (however nominated in that state) of the destination state have been paid to the supplier, as a trustee, who is licensed to remit tax to the destination state; or which is destined for use within the destination state by the federal government for which an exemption has been made available by the destination state subject to procedural rules and regulations promulgated by the director; or

(c) Acquired by a licensed distributor and which the tax imposed by this chapter has previously been paid or accrued either as a result of being stored outside of the bulk transfer system immediately prior to loading or as a diversion across state boundaries properly reported in conformity with this chapter and was subsequently exported from this state on behalf of the distributor;

The exemption pursuant to paragraph (a) of this subdivision shall be claimed by a deduction on the report of the supplier which is otherwise responsible for remitting the tax upon removal of the product from a terminal or refinery in this state. The exemption pursuant to paragraphs (b) and (c) of this subdivision shall be claimed by the distributor, upon a refund application made to the director within three years. A refund claim may be made monthly or whenever the claim exceeds one thousand dollars;

(2) Undyed K-1 kerosene sold at retail through dispensers which have been designed and constructed to prevent delivery directly from the dispenser into a vehicle fuel supply tank, and undyed K-1 kerosene sold at retail through nonbarricaded dispensers in quantities of not more than twenty-one gallons for use other than for highway purposes. Exempt use of undyed kerosene shall be governed by rules and regulations of the director. If no rules or regulations are promulgated by the director, then the exempt use of undyed kerosene shall

be governed by rules and regulations of the Internal Revenue Service. A distributor or supplier delivering to a retail facility shall obtain an exemption certificate from the owner or operator of such facility stating that its sales conform to the dispenser requirements of this subdivision. A licensed distributor, having obtained such certificate, may provide a copy to his or her supplier and obtain undyed kerosene without the tax levied by section 142.803. Having obtained such certificate in good faith, such supplier shall be relieved of any responsibility if the fuel is later used in a taxable manner. An ultimate vendor who obtained undyed kerosene upon which the tax levied by section 142.803 had been paid and makes sales qualifying pursuant to this subsection, may apply for a refund of the tax pursuant to application, as provided in section 142.818, to the director provided the ultimate vendor did not charge such tax to the consumer;

(3) Motor fuel sold to the United States or any agency or instrumentality thereof. This exemption shall be claimed as provided in section 142.818;

(4) Motor fuel used solely and exclusively as fuel to propel motor vehicles on the public roads and highways of this state when leased or owned and when being operated by a federally recognized Indian tribe in the performance of essential governmental functions, such as providing police, fire, health or water services. The exemption for use pursuant to this subdivision shall be made available to the tribal government upon a refund application stating that the motor fuel was purchased for the exclusive use of the tribe in performing named essential governmental services;

(5) Motor fuel sold within an Indian reservation or within Indian country by a federally recognized Indian tribe to a member of that tribe and used in motor vehicles owned by a member of the tribe within Indian country. This exemption does not apply to sales within an Indian reservation or within Indian country by a federally recognized Indian tribe to non-Indian consumers or to Indian consumers who are not members of the tribe selling the motor fuel. This exemption shall be administered as provided in section 142.821;

(6) That portion of motor fuel used to operate equipment attached to a motor vehicle, if the motor fuel was placed into the fuel supply tank of a motor vehicle that has a common fuel reservoir for travel on a highway and for the operation of equipment, or if the motor fuel was placed in a separate fuel tank and used only for the operation of auxiliary equipment. The exemption for use pursuant to this subdivision shall be claimed by a refund claim filed by the consumer who shall provide evidence of an allocation of use satisfactory to the director;

(7) Motor fuel acquired by a consumer out-of-state and carried into this state, retained within and consumed from the same vehicle fuel supply tank within which it was imported, except interstate motor fuel users;

(8) Motor fuel which was purchased tax-paid and which was lost or destroyed as a direct result of a sudden and unexpected casualty or which had been accidentally

contaminated so as to be unsalable as highway fuel as shown by proper documentation as required by the director. The exemption pursuant to this subdivision shall be refunded to the person or entity owning the motor fuel at the time of the contamination or loss. Such person shall notify the director in writing of such event and the amount of motor fuel lost or contaminated within ten days from the date of discovery of such loss or contamination, and within thirty days after such notice, shall file an affidavit sworn to by the person having immediate custody of such motor fuel at the time of the loss or contamination, setting forth in full the circumstances and the amount of the loss or contamination and such other information with respect thereto as the director may require;

(9) Dyed diesel fuel or dyed kerosene used for an exempt purpose. This exemption shall be claimed as follows:

(a) A supplier or importer shall take a deduction against motor fuel tax owed on their monthly report for those gallons of dyed diesel fuel or dyed kerosene imported or removed from a terminal or refinery destined for delivery to a point in this state as shown on the shipping papers;

(b) This exemption shall be claimed by a deduction on the report of the supplier which is otherwise responsible for remitting the tax on removal of the product from a terminal or refinery in this state;

(c) This exemption shall be claimed by the distributor, upon a refund application made to the director within three years. A refund claim may be made monthly or whenever the claim exceeds one thousand dollars.

144.010. 1. The following words, terms, and phrases when used in sections 144.010 to 144.525 have the meanings ascribed to them in this section, except when the context indicates a different meaning:

(1) "Admission" includes seats and tables, reserved or otherwise, and other similar accommodations and charges made therefor and amount paid for admission, exclusive of any admission tax imposed by the federal government or by sections 144.010 to 144.525;

(2) "Business" includes any activity engaged in by any person, or caused to be engaged in by him, with the object of gain, benefit or advantage, either direct or indirect, and the classification of which business is of such character as to be subject to the terms of sections 144.010 to 144.525. The isolated or occasional sale of tangible personal property, service, substance, or thing, by a person not engaged in such business, does not constitute engaging in business within the meaning of sections 144.010 to 144.525 unless the total amount of the gross receipts from such sales, exclusive of receipts from the sale of tangible personal property by persons which property is sold in the course of the partial or complete liquidation of a household, farm or nonbusiness enterprise, exceeds three thousand dollars in any calendar year. The provisions of this subdivision shall not be construed to make any sale of property which is exempt from sales tax or use tax on June 1, 1977, subject to that tax

thereafter;

(3) "Gross receipts", except as provided in section 144.012, means the total amount of the sale price of the sales at retail including any services other than charges incident to the extension of credit that are a part of such sales made by the businesses herein referred to, capable of being valued in money, whether received in money or otherwise; except that, the term "gross receipts" shall not include the sale price of property returned by customers when the full sale price thereof is refunded either in cash or by credit. In determining any tax due under sections 144.010 to 144.525 on the gross receipts, charges incident to the extension of credit shall be specifically exempted. For the purposes of sections 144.010 to 144.525 the total amount of the sale price above mentioned shall be deemed to be the amount received. It shall also include the lease or rental consideration where the right to continuous possession or use of any article of tangible personal property is granted under a lease or contract and such transfer of possession would be taxable if outright sale were made and, in such cases, the same shall be taxable as if outright sale were made and considered as a sale of such article, and the tax shall be computed and paid by the lessee upon the rentals paid;

(4) "Livestock", cattle, calves, sheep, swine, ratite birds, including but not limited to, ostrich and emu, aquatic products as defined in section 277.024, RSMo, **llamas, alpaca, buffalo**, elk documented as obtained from a legal source and not from the wild, goats, horses, other equine, or rabbits raised in confinement for human consumption;

(5) "Motor vehicle leasing company" shall be a company obtaining a permit from the director of revenue to operate as a motor vehicle leasing company. Not all persons renting or leasing trailers or motor vehicles need to obtain such a permit; however, no person failing to obtain such a permit may avail itself of the optional tax provisions of subsection 5 of section 144.070, as hereinafter provided;

(6) "Person" includes any individual, firm, copartnership, joint adventure, association, corporation, municipal or private, and whether organized for profit or not, state, county, political subdivision, state department, commission, board, bureau or agency, except the state transportation department, estate, trust, business trust, receiver or trustee appointed by the state or federal court, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular number;

(7) "Purchaser" means a person who purchases tangible personal property or to whom are rendered services, receipts from which are taxable under sections 144.010 to 144.525;

(8) "Research or experimentation activities", are the development of an experimental or pilot model, plant process, formula, invention or similar property, and the improvement of existing property of such type. Research or experimentation activities do not include activities such as ordinary testing or inspection of materials or products for quality control, efficiency surveys, advertising promotions or research in connection with literary, historical or similar projects;

(9) "Sale" or "sales" includes installment and credit sales, and the exchange of properties as well as the sale thereof for money, every closed transaction constituting a sale, and means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for valuable consideration and the rendering, furnishing or selling for a valuable consideration any of the substances, things and services herein designated and defined as taxable under the terms of sections 144.010 to 144.525;

(10) "Sale at retail" means any transfer made by any person engaged in business as defined herein of the ownership of, or title to, tangible personal property to the purchaser, for use or consumption and not for resale in any form as tangible personal property, for a valuable consideration; except that, for the purposes of sections 144.010 to 144.525 and the tax imposed thereby: (i) purchases of tangible personal property made by duly licensed physicians, dentists, optometrists and veterinarians and used in the practice of their professions shall be deemed to be purchases for use or consumption and not for resale; and (ii) the selling of computer printouts, computer output or microfilm or microfiche and computer-assisted photo compositions to a purchaser to enable the purchaser to obtain for his or her own use the desired information contained in such computer printouts, computer output on microfilm or microfiche and computer-assisted photo compositions shall be considered as the sale of a service and not as the sale of tangible personal property. Where necessary to conform to the context of sections 144.010 to 144.525 and the tax imposed thereby, the term "sale at retail" shall be construed to embrace:

(a) Sales of admission tickets, cash admissions, charges and fees to or in places of amusement, entertainment and recreation, games and athletic events;

(b) Sales of electricity, electrical current, water and gas, natural or artificial, to domestic, commercial or industrial consumers;

(c) Sales of local and long distance telecommunications service to telecommunications subscribers and to others through equipment of telecommunications subscribers for the transmission of messages and conversations, and the sale, rental or leasing of all equipment or services pertaining or incidental thereto;

(d) Sales of service for transmission of messages by telegraph companies;

(e) Sales or charges for all rooms, meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist camp, tourist cabin, or other place in which rooms, meals or drinks are regularly served to the public;

(f) Sales of tickets by every person operating a railroad, sleeping car, dining car, express car, boat, airplane, and such buses and trucks as are licensed by the division of motor carrier and railroad safety of the department of economic development of Missouri, engaged in the transportation of persons for hire;

(11) "Seller" means a person selling or furnishing tangible personal property or

rendering services, on the receipts from which a tax is imposed pursuant to section 144.020;

(12) The noun "tax" means either the tax payable by the purchaser of a commodity or service subject to tax, or the aggregate amount of taxes due from the vendor of such commodities or services during the period for which he or she is required to report his or her collections, as the context may require;

(13) "Telecommunications service", for the purpose of this chapter, the transmission of information by wire, radio, optical cable, coaxial cable, electronic impulses, or other similar means. As used in this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. Telecommunications service does not include the following if such services are separately stated on the customer's bill or on records of the seller maintained in the ordinary course of business:

(a) Access to the Internet, access to interactive computer services or electronic publishing services, except the amount paid for the telecommunications service used to provide such access;

(b) Answering services and one-way paging services;

(c) Private mobile radio services which are not two-way commercial mobile radio services such as wireless telephone, personal communications services or enhanced specialized mobile radio services as defined pursuant to federal law; or

(d) Cable or satellite television or music services; and

(14) "Product which is intended to be sold ultimately for final use or consumption" means tangible personal property, or any service that is subject to state or local sales or use taxes, or any tax that is substantially equivalent thereto, in this state or any other state.

2. For purposes of the taxes imposed under sections 144.010 to 144.525, and any other provisions of law pertaining to sales or use taxes which incorporate the provisions of sections 144.010 to 144.525 by reference, the term "manufactured homes" shall have the same meaning given it in section 700.010, RSMo.

3. Sections 144.010 to 144.525 may be known and quoted as the "Sales Tax Law".

144.030. 1. There is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and any other state of the United States, or between this state and any foreign country, and any retail sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of the United States of America, and such retail sales of tangible personal property which the general assembly of the state of Missouri is prohibited from taxing or further taxing by the constitution of this state.

2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525

and 144.600 to 144.745 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745:

(1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such excise tax is refunded pursuant to section [142.584] **142.824**, RSMo; or upon the sale at retail of fuel to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at retail; economic poisons registered pursuant to the provisions of the Missouri pesticide registration law (sections 281.220 to 281.310, RSMo) which are to be used in connection with the growth or production of crops, fruit trees or orchards applied before, during, or after planting, the crop of which when harvested will be sold at retail or will be converted into foodstuffs which are to be sold ultimately in processed form at retail;

(2) Materials, manufactured goods, machinery and parts which when used in manufacturing, processing, compounding, mining, producing or fabricating become a component part or ingredient of the new personal property resulting from such manufacturing, processing, compounding, mining, producing or fabricating and which new personal property is intended to be sold ultimately for final use or consumption; and materials, including without limitation, gases and manufactured goods, including without limitation, slagging materials and firebrick, which are ultimately consumed in the manufacturing process by blending, reacting or interacting with or by becoming, in whole or in part, component parts or ingredients of steel products intended to be sold ultimately for final use or consumption;

(3) Materials, replacement parts and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock or aircraft engaged as common carriers of persons or property;

(4) Replacement machinery, equipment, and parts and the materials and supplies solely required for the installation or construction of such replacement machinery, equipment, and parts, used directly in manufacturing, mining, fabricating or producing a product which is intended to be sold ultimately for final use or consumption; and machinery and equipment, and the materials and supplies required solely for the operation, installation or construction of such machinery and equipment, purchased and used to establish new, or to replace or expand existing, material recovery processing plants in this state. For the purposes of this subdivision, a "material recovery processing plant" means a facility which converts recovered materials into a new product, or a different form which is used in producing a new product,

and shall include a facility or equipment which is used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but shall not include motor vehicles used on highways. For purposes of this section, the terms "motor vehicle" and "highway" shall have the same meaning pursuant to section 301.010, RSMo;

(5) Machinery and equipment, and parts and the materials and supplies solely required for the installation or construction of such machinery and equipment, purchased and used to establish new or to expand existing manufacturing, mining or fabricating plants in the state if such machinery and equipment is used directly in manufacturing, mining or fabricating a product which is intended to be sold ultimately for final use or consumption;

(6) Tangible personal property which is used exclusively in the manufacturing, processing, modification or assembling of products sold to the United States government or to any agency of the United States government;

(7) Animals or poultry used for breeding or feeding purposes;

(8) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and other machinery, equipment, replacement parts and supplies used in producing newspapers published for dissemination of news to the general public;

(9) The rentals of films, records or any type of sound or picture transcriptions for public commercial display;

(10) Pumping machinery and equipment used to propel products delivered by pipelines engaged as common carriers;

(11) Railroad rolling stock for use in transporting persons or property in interstate commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or more or trailers used by common carriers, as defined in section 390.020, RSMo, solely in the transportation of persons or property in interstate commerce;

(12) Electrical energy used in the actual primary manufacture, processing, compounding, mining or producing of a product, or electrical energy used in the actual secondary processing or fabricating of the product, or a material recovery processing plant as defined in subdivision (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so used exceeds ten percent of the total cost of production, either primary or secondary, exclusive of the cost of electrical energy so used or if the raw materials used in such processing contain at least twenty-five percent recovered materials as defined in section 260.200, RSMo. For purposes of this subdivision, "processing" means any mode of treatment, act or series of acts performed upon materials to transform and reduce them to a different state or thing, including treatment necessary to maintain or preserve such processing by the producer at the production facility;

(13) Anodes which are used or consumed in manufacturing, processing, compounding, mining, producing or fabricating and which have a useful life of less than one year;

(14) Machinery, equipment, appliances and devices purchased or leased and used

solely for the purpose of preventing, abating or monitoring air pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the air conservation commission which may uphold or reverse such action;

(15) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring water pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the Missouri clean water commission which may uphold or reverse such action;

(16) Tangible personal property purchased by a rural water district;

(17) All amounts paid or charged for admission or participation or other fees paid by or other charges to individuals in or for any place of amusement, entertainment or recreation, games or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a municipality or other political subdivision where all the proceeds derived therefrom benefit the municipality or other political subdivision and do not inure to any private person, firm, or corporation;

(18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically including hearing aids and hearing aid supplies and all sales of drugs which may be legally dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to administer those items, including samples and materials used to manufacture samples which may be dispensed by a practitioner authorized to dispense such samples and all sales of medical oxygen, home respiratory equipment and accessories, hospital beds and accessories and ambulatory aids, all sales of manual and powered wheelchairs, stairway lifts, Braille writers, electronic Braille equipment and, if purchased by or on behalf of a person with one or more physical or mental disabilities to enable them to function more independently, all sales of scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and augmentative communication devices, and items used solely to modify motor vehicles to permit the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or nonprescription drugs to individuals with disabilities;

(19) All sales made by or to religious and charitable organizations and institutions in their religious, charitable or educational functions and activities and all sales made by or to all elementary and secondary schools operated at public expense in their educational functions and activities;

(20) All sales of aircraft to common carriers for storage or for use in interstate commerce and all sales made by or to not-for-profit civic, social, service or fraternal organizations, including fraternal organizations which have been declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, solely in their civic or charitable functions and activities and all sales made to eleemosynary and penal institutions and industries of the state, and all sales made to any private not-for-profit institution of higher education not otherwise excluded pursuant to subdivision (19) of this subsection or any institution of higher education supported by public funds, and all sales made to a state relief agency in the exercise of relief functions and activities;

(21) All ticket sales made by benevolent, scientific and educational associations which are formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals, and by nonprofit summer theater organizations if such organizations are exempt from federal tax pursuant to the provisions of the Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any fair conducted by a county agricultural and mechanical society organized and operated pursuant to sections 262.290 to 262.530, RSMo;

(22) All sales made to any private not-for-profit elementary or secondary school, all sales of feed additives, medications or vaccines administered to livestock or poultry in the production of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as defined in section 142.028, RSMo, **natural gas, propane, and electricity used by an eligible new generation cooperative or an eligible new generation processing entity as defined in section 348.432, RSMo**, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and trailers. As used in this subdivision, the term "feed additives" means tangible personal property which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term "farm machinery and equipment" means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts thereon, and supplies and lubricants used exclusively, solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail, **including field drain tile**, and one-half of each purchaser's purchase of diesel fuel

therefor which is:

- (a) Used exclusively for agricultural purposes;
- (b) Used on land owned or leased for the purpose of producing farm products; and
- (c) Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail;

(23) Except as otherwise provided in section 144.032, all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for domestic use and in any city not within a county, all sales of metered or unmetered water service for domestic use;

(a) "Domestic use" means that portion of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not within a county, metered or unmetered water service, which an individual occupant of a residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility service through a single or master meter for residential apartments or condominiums, including service for common areas and facilities and vacant units, shall be deemed to be for domestic use. Each seller shall establish and maintain a system whereby individual purchases are determined as exempt or nonexempt;

(b) Regulated utility sellers shall determine whether individual purchases are exempt or nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file with and approved by the Missouri public service commission. Sales and purchases made pursuant to the rate classification "residential" and sales to and purchases made by or on behalf of the occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, shall be considered as sales made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales tax upon the entire amount of purchases classified as nondomestic use. The seller's utility service rate classification and the provision of service thereunder shall be conclusive as to whether or not the utility must charge sales tax;

(c) Each person making domestic use purchases of services or property and who uses any portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day of the fourth month following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on that portion of nondomestic purchases. Each person making nondomestic purchases of services or property and who uses any portion of the services or property so purchased for domestic use, and each person making domestic purchases on behalf of occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, under a nonresidential utility service rate classification may, between the first day of the first month and the fifteenth day of the fourth month following the year of

purchase, apply for credit or refund to the director of revenue and the director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The person making such purchases on behalf of occupants of residential apartments or condominiums shall have standing to apply to the director of revenue for such credit or refund;

(24) All sales of handicraft items made by the seller or the seller's spouse if the seller or the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such sales do not constitute a majority of the annual gross income of the seller;

(25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of revenue shall promulgate rules pursuant to chapter 536, RSMo, to eliminate all state and local sales taxes on such excise taxes;

(26) Sales of fuel consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire, on navigable rivers bordering on or located in part in this state, if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such river;

(27) All sales made to an interstate compact agency created pursuant to sections 70.370 to 70.430, RSMo, or sections 238.010 to 238.100, RSMo, in the exercise of the functions and activities of such agency as provided pursuant to the compact;

(28) Computers, computer software and computer security systems purchased for use by architectural or engineering firms headquartered in this state. For the purposes of this subdivision, "headquartered in this state" means the office for the administrative management of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

(29) All livestock sales when either the seller is engaged in the growing, producing or feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or leasing of such livestock;

(30) All sales of barges which are to be used primarily in the transportation of property or cargo on interstate waterways;

(31) Electrical energy or gas, whether natural, artificial or propane, which is ultimately consumed in connection with the manufacturing of cellular glass products;

(32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or herbicides used in the production of crops, aquaculture, livestock or poultry;

(33) Tangible personal property purchased for use or consumption directly or exclusively in the research and development of prescription pharmaceuticals consumed by humans or animals;

(34) All sales of grain bins for storage of grain for resale;

(35) All sales of feed which are developed for and used in the feeding of pets owned

by a commercial breeder when such sales are made to a commercial breeder, as defined in section 273.325, RSMo, and licensed pursuant to sections 273.325 to 273.357, RSMo;

(36) All purchases by a contractor on behalf of an entity located in another state, provided that the entity is authorized to issue a certificate of exemption for purchases to a contractor under the provisions of that state's laws. For purposes of this subdivision, the term "certificate of exemption" shall mean any document evidencing that the entity is exempt from sales and use taxes on purchases pursuant to the laws of the state in which the entity is located. Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's exemption certificate as evidence of the exemption. If the exemption certificate issued by the exempt entity to the contractor is later determined by the director of revenue to be invalid for any reason and the contractor has accepted the certificate in good faith, neither the contractor or the exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result of use of the invalid exemption certificate. Materials shall be exempt from all state and local sales and use taxes when purchased by a contractor for the purpose of fabricating tangible personal property which is used in fulfilling a contract for the purpose of constructing, repairing or remodeling facilities for the following:

(a) An exempt entity located in this state, if the entity is one of those entities able to issue project exemption certificates in accordance with the provisions of section 144.062; or

(b) An exempt entity located outside the state if the exempt entity is authorized to issue an exemption certificate to contractors in accordance with the provisions of that state's law and the applicable provisions of this section;

(37) Tangible personal property purchased for use or consumption directly or exclusively in research or experimentation activities performed by life science companies and so certified as such by the director of the department of economic development or the director's designees; except that, the total amount of exemptions certified pursuant to this section shall not exceed one million three hundred thousand dollars in state and local taxes per fiscal year. For purposes of this subdivision, the term "life science companies" means companies whose primary research activities are in agriculture, pharmaceuticals, biomedical or food ingredients, and whose North American Industry Classification System (NAICS) Codes fall under industry 541710 (biotech research or development laboratories), 621511 (medical laboratories) or 541940 (veterinary services). The exemption provided by this subdivision shall expire on June 30, 2003;

(38) All sales or other transfers of tangible personal property to a lessor, who leases the property under a lease of one year or longer executed or in effect at the time of the sale or other transfer, to an interstate compact agency created pursuant to sections 70.370 to 70.430, RSMo, or sections 238.010 to 238.100, RSMo.

196.291. All sales of foods which are not potentially hazardous foods, as

defined by regulation, sold by religious, charitable, or nonprofit organizations at their religious events or at charitable functions and activities shall be exempt from all state laws and regulations relating to food inspection, pursuant to sections 196.190 to 196.271, RSMo.

246.005. 1. Notwithstanding any other provision of law, any drainage district, any levee district, or any drainage and levee district organized under the provisions of sections 242.010 to 242.690, RSMo, or sections 245.010 to 245.280, RSMo, which has, prior to April 8, 1994, been granted an extension of the time of corporate existence by the circuit court having jurisdiction, shall be deemed to have fully complied with all provisions of law relating to such extensions, including the time within which application for the extension must be made, unless, for good cause shown, the circuit court shall set aside such extension within ninety days after April 8, 1994.

2. Notwithstanding any other provision of law, any drainage district, any levee district, or any drainage and levee district organized under the provisions of sections 242.010 to 242.690, RSMo, or sections 245.010 to 245.280, RSMo, shall have five years after the lapse of the corporate charter in which to reinstate and extend the time of the corporate existence by the circuit court having jurisdiction, and such circuit court judgment entry and order shall be deemed to have fully complied with all provisions of law relating to such extensions.

261.241. 1. Sellers of jams, [and] jellies, **and honey** whose annual sales of jams, [and] jellies, **and honey** are thirty thousand dollars or less **per domicile** shall not be required to construct or maintain separate facilities for the manufacture of [food products] **jams, jellies, and honey**. [However,] Such sellers shall [comply with] **be exempt from** all remaining health standards and regulations for the manufacture of [food products] **jams, jellies, and honey** pursuant to [chapter 196, RSMo.] **sections 196.190 to 196.271, RSMo, if they meet the following requirements:**

(1) Jams, jellies, and honey shall be manufactured in the domicile of the person processing and selling the jams, jellies, and honey and sold by the manufacturer to the end consumer;

(2) Jams, jellies, and honey shall be labeled with the following information in legible English as set forth in subsection 2 of this section;

(3) During the sale of such jams, jellies, and honey, a placard shall be displayed in a prominent location stating the following: "This product has not been inspected by the Department of Health and Senior Services.";

(4) Annual gross sales shall not exceed thirty thousand dollars. The person manufacturing such jams, jellies, and honey, shall maintain a record of sales of jams, jellies, and honey processed and sold. The record shall be available to the regulatory authority when requested.

2. The jams, jellies, and honey shall be labeled with the following information:

- (1) Name and address of the persons preparing the food;
- (2) Common name of the food;
- (3) The name of all ingredients in the food; and
- (4) Statement that the jams, jellies, and honey have not been inspected by the department of health and senior services.

3. Sellers of jams, jellies, and honey who violate the provisions of this section may be enjoined from selling jams, jellies, and honey by the department of health and senior services.

262.820. There is hereby created the "Missouri Wine and Grape Board", a body politic and corporate, an independent instrumentality exercising essential public functions, with duties and powers as set forth in sections 262.820 to 262.859.

262.823. The purpose of the board shall be to further the growth and development of the grape growing industry in the state of Missouri. The board shall have a correlate purpose of fostering the expansion of the grape market for Missouri grapes. To effectuate these goals, the board may:

- (1) Participate in cooperation with state, regional, national, or international activities, groups, and organizations whose objectives are that of developing new and better grape varieties to determine their suitability for growing in Missouri;

- (2) Participate in and develop research projects on improved wine making methods utilizing the new grape varieties to be grown in Missouri;

- (3) Utilize the individual and collective expertise of the board members as well as experts in the fields of enology and viticulture selected by the board, to update and improve the quality of grapes grown in Missouri and advanced methods of producing wines from these Missouri grapes;

- (4) Furnish current information and associated data on research conducted by and for the board to grape growers and vintners in Missouri as well as to interested persons considering entering these fields within the state; and

- (5) Participate in subsequent studies, programs, research, and information and data dissemination in the areas of sales, promotions, and effective distribution of Missouri wines.

262.826. As used in sections 262.820 to 262.859, the following terms shall mean:

- (1) "Board", the Missouri wine and grape board established pursuant to section 262.820;

- (2) "Council", the Missouri wine marketing and research council established pursuant to section 275.462, RSMo.

262.829. The principal office of the board shall be located in Jefferson City, Missouri. The board may have offices at such other places as the board may from time to time designate. The board shall act as the organization within the department of agriculture charged with the promotion, research, and advisement of grapes and grape products in Missouri, and shall be the sole recipient of funding as provided for in section 311.554, RSMo.

262.832. Notwithstanding the provisions of any other law to the contrary, no officer or employee of this state shall be deemed to have forfeited or shall forfeit his or her office or employment by reason of his or her acceptance of membership on the board or his or her service thereto.

262.835. The powers of the board shall be vested in eleven members, who shall be residents of this state. The board shall be composed of seven industry members who shall represent the Missouri grape and wine industry, food service industry, or media marketing industry. These seven members shall be current members of the Missouri grape and wine advisory board as of the effective date of this act. Such members shall serve the remainder of their terms established for the advisory board. Upon the expiration of the terms of such members, the members of the board representing the industry shall be appointed by the governor, with the advice and consent of the senate. Except for ex-officio members, each board member appointed by the governor shall serve a four-year term ending four years from the date of expiration of the term for which his or her predecessor was appointed; except that a person appointed to fill a vacancy prior to the expiration of such a term shall be appointed for the remainder of the term. No board member appointed under sections 262.820 to 262.859 by the governor shall serve more than two consecutive full terms. Each appointed board member shall hold office for the term of the members appointment and until a successor is appointed and qualified. The board shall have four ex-officio members, including the president of the Missouri Grape Growers Association, the president of the Missouri Vintners Association, the president of the Missouri Wine Marketing and Research Council, and the director of the department of agriculture. Ex-officio members shall be voting members of the board and their terms will coincide with the time they hold the elected or appointed office qualifying them to be a member of the board.

262.838. A board member shall be removed from office by the governor for malfeasance, willful neglect of duty, or other cause after notice and public hearing, unless such notice or hearing shall be expressly waived in writing.

262.841. The board members shall annually elect from among their number a chairperson and vice chairperson, and such other officers as they may deem

necessary.

262.844. The board shall meet in Jefferson City within sixty days of the effective date of this act to elect a chairperson and vice chairperson of the board. The committee shall thereafter meet annually, within sixty days of July first, to elect officers and conduct business of the board. Additional meetings shall be held at the call of the chairperson or whenever two board members so request. Six members of the board shall constitute a quorum, and any action taken by the board under the provisions of sections 262.820 to 262.859 may be authorized by resolution approved by a majority, but not less than five, of the board members present at any regular or special meeting. In the absence of the chairman, the vice chairman may preside over the annual meeting of the board or in the absence of the chairman, any meeting requested by two or more commissioners. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board.

262.847. Board members shall receive no compensation for the performance of their duties under sections 262.820 to 262.859, but each board member shall be reimbursed from the funds of the board for actual and necessary expenses incurred in carrying out the member's official duties under sections 262.820 to 262.859.

262.850. The board shall employ an executive director. The executive director shall be the secretary of the board and shall administer, manage, and direct the affairs and business of the board, subject to the policies, control, and direction of the board. The board may employ technical experts and such other officers, agents, and employees as they deem necessary, and may fix their qualifications, duties, and compensation. The executive director of the board shall be paid an amount to be determined by the board, but not to exceed that of a division director of the department of agriculture. The executive director and all other employees of the board shall be state employees and eligible for all corresponding benefits. The board may delegate to the executive director, or to one or more of its agents or employees, such powers and duties as it may deem proper.

262.853. The secretary shall keep a record of the proceedings of the board and shall be custodian of all books, documents, and papers filed with the board and of its minute book. The secretary shall have the authority to cause to be made copies of all minutes and other records and documents of the board.

262.856. The board shall have all of the powers necessary and convenient to carry out and effectuate the purposes and provisions of sections 262.820 to 262.859, including, but not limited to, the power to:

- (1) Receive and accept from any source, aid, or contributions of money,

property, labor, or other things of value to be held, used, and applied to carry out the purposes of sections 262.820 to 262.859, subject to the conditions upon which the grants or contributions are made, including, but not limited to, gifts, or grants from any department, agency, or instrumentality of the United States for any purpose consistent with sections 262.820 to 262.859;

(2) To work with and counsel the viticulture and enology experts on the needs and requirements of grape producers and wine makers so as to optimize their work in developing the best strains of all grape varieties related to soil and climate conditions throughout the state and developing the art of wine making utilizing Missouri produced grapes;

(3) To review progress and final reports from these experts to determine the potential of economic forecasts for developing the Missouri grape and wine industries;

(4) To confer and cooperate with similar boards or councils in other states to further understandings and accords on the grape and wine industries;

(5) To approve and recommend desirable amendments to these powers of the board;

(6) To perform such other duties as may be necessary to proper operations of the board.

262.859. The board shall, following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor and the general assembly. Each report shall set forth a complete operating and financial statement for the authority during the fiscal year it covers.

265.300. The following terms as used in sections 265.300 to 265.470, unless the context otherwise indicates, mean:

(1) "Adulterated", any meat or meat product under one or more of the circumstances listed in Title XXI, Chapter 12, Section 601 of the United States Code as now constituted or hereafter amended;

(2) "Capable of use as human food", any carcass, or part or product of a carcass, of any animal unless it is denatured or otherwise identified, as required by regulation prescribed by the director, to deter its use as human food, or is naturally inedible by humans;

(3) "Cold storage warehouse", any place for storing meat or meat products which contains at any one time over two thousand five hundred pounds of meat or meat products belonging to any one private owner other than the owner or operator of the warehouse;

(4) "Commercial plant", any establishment in which livestock or poultry are slaughtered for transportation or sale as articles of commerce intended for or capable of use for human consumption, or in which meat or meat products are prepared for transportation or sale as articles of commerce, intended for or capable of use for human consumption;

(5) "Director", the director of the department of agriculture of this state, or his authorized representative;

(6) "Livestock", cattle, calves, sheep, swine, ratite birds including but not limited to ostrich and emu, aquatic products as defined in section 277.024, RSMo, **llamas, alpaca, buffalo**, elk documented as obtained from a legal source and not from the wild, goats, or horses, other equines, or rabbits raised in confinement for human consumption;

(7) "Meat", any edible portion of livestock or poultry carcass or part thereof;

(8) "Meat product", anything containing meat intended for or capable of use for human consumption, which is derived, in whole or in part, from livestock or poultry;

(9) "Misbranded", any meat or meat product under one or more of the circumstances listed in Title XXI, Chapter 12, Section 601 of the United States Code as now constituted or hereafter amended;

(10) "Official inspection mark", the symbol prescribed by the director stating that an article was inspected and passed or condemned;

(11) "Poultry", any domesticated bird intended for human consumption;

(12) "Prepared", slaughtered, canned, salted, rendered, boned, cut up, or otherwise manufactured or processed;

(13) "Unwholesome":

(a) Processed, prepared, packed or held under unsanitary conditions;

(b) Produced in whole or in part from livestock or poultry which has died other than by slaughter.

267.565. Unless the context requires otherwise, as used in sections 267.560 to 267.660, the following terms mean:

(1) "Accredited approved veterinarian", 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 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", an animal of the equine, bovine, porcine, ovine, caprine, or species domesticated or semidomesticated;

(3) "Approved laboratory", a laboratory approved by the department;

(4) "Approved vaccine" or "bacterin", a vaccine or bacterin produced under the license of the United States Department of Agriculture and approved by the department for the immunization of animals against infectious and contagious disease;

(5) "Bird", a bird of the avian species;

(6) "Certified free herd", a herd of cattle, swine, goats or a flock of sheep or birds

which has met the requirements and the conditions set forth in sections 267.560 to 267.660 and as required by the department and as recommended by the United States Department of Agriculture, and for such status for a specific disease and for a herd of cattle, swine, goats or flock of sheep or birds 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 animals or birds are domiciled, and as recommended by the United States Department of Agriculture for such status for a specific disease;

(7) "Department" or "department of agriculture", 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 agriculture of the state of Missouri, or by the state veterinarian of the state of Missouri or his duly authorized deputies acting under the supervision of the director of agriculture;

(8) "Infected animal" or "infected bird", an animal or bird which shows a positive reaction to any recognized serological test or growth on culture or any other recognized test for the detection of any disease of livestock or poultry as approved by the department or when clinical symptoms and history justifies designating such animal or bird as being infected with a contagious or infectious disease;

(9) "Isolated" or "isolation", a condition in which animals or birds are quarantined to a certain designated premises and quarantined separately and apart from any other animals or birds on adjacent premises;

(10) "Licensed market", a market as defined and licensed under chapter 277, RSMo;

(11) "Livestock", horses, cattle, swine, sheep, goats, ratite birds including but not limited to ostrich and emu, aquatic products as defined in section 277.024, RSMo, **llamas, alpaca, buffalo**, elk documented as obtained from a legal source and not from the wild and raised in confinement for human consumption or animal husbandry, poultry and other domesticated animals or birds;

(12) "Official health certificate" is a legal record covering the requirements of the state of Missouri executed on an official form of the standard size from the state of origin and approved by the proper livestock sanitary official of the state of origin or an equivalent form provided by the United States Department of Agriculture and issued by an approved, accredited, licensed, graduate veterinarian;

(13) "Public stockyards", any public stockyards located within the state of Missouri and subject to regulations of the United States Department of Agriculture or the Missouri department of agriculture;

(14) "Quarantine", a condition in which an animal or bird of any species is restricted in movement to a particular premises under such terms and conditions as may be designated by order of the state veterinarian or his duly authorized deputies;

(15) "Traders" or "dealers", any person, firm or corporation engaged in the business of buying, selling or exchange of livestock on any basis other than on a commission basis at any sale pen, concentration point, farm, truck or other conveyance including persons, firms or corporations employed as an agent of the vendor or purchaser excluding public stockyards under federal supervision or markets licensed under sections 267.560 to 267.660 and under the supervision of the department, breed association sales or any private farm sale.

268.063. Any information related to premises registration shall be confidential information, to be shared with no one except state and federal animal health officials, and shall not be subject to subpoena or other compulsory production.

276.606. As used in sections 276.600 to 276.661, the following terms mean:

- (1) "Agent", any person authorized to act for a livestock dealer;
- (2) "Dealer transactions", any purchase, sale, or exchange of livestock by a dealer, or agent, representative, or consignee of a dealer or person in which any interest equitable or legal is acquired or divested whether directly or indirectly;
- (3) "Director", the director of the Missouri department of agriculture or his designated representative;
- (4) "Engaged in the business of buying, selling, or exchanging in commerce livestock", sales and purchases of greater frequency than the person would make in feeding operation under the normal operation of a farm, if the person is a farmer. If the person is not a farmer he is a dealer engaged in the business of buying, selling, or exchanging in commerce livestock;
- (5) "Livestock", cattle, swine, sheep, goats, horses and poultry, **llamas, alpaca, buffalo**, and other domesticated or semidomesticated or exotic animals;
- (6) "Livestock dealer", any person engaged in the business of buying, selling, or exchanging in commerce of livestock;
- (7) "Livestock transactions", any purchase, sale or exchange of livestock by a person, whether or not a livestock dealer, in which any interest equitable or legal is acquired or divested whether directly or indirectly;
- (8) "Official ear tag", a metal or plastic ear tag prescribed by the director conforming to the nine character alpha-numeric national uniform ear-tagging system;
- (9) "Person", any individual, partnership, corporation, association or other legal entity;
- (10) "State veterinarian", the state veterinarian of the Missouri department of agriculture, or his appointed agent.

277.020. The following terms as used in this chapter mean:

- (1) "Livestock", cattle, swine, sheep, ratite birds including but not limited to ostrich and emu, aquatic products as defined in section 277.024, **llamas, alpaca, buffalo, elk**

documented as obtained from a legal source and not from the wild and raised in confinement for human consumption or animal husbandry, goats and poultry, equine and exotic animals;

(2) "Livestock market", a place of business or place where livestock is concentrated for the purpose of sale, exchange or trade made at regular or irregular intervals, whether at auction or not, except this definition shall not apply to any public farm sale or purebred livestock sale, or to any sale, transfer, or exchange of livestock from one person to another person for movement or transfer to other farm premises or directly to a licensed market;

(3) "Livestock sale", the business of mediating, for a commission, or otherwise, sale, purchase, or exchange transactions in livestock, whether or not at a livestock market; except the term "livestock sale" shall not apply to order buyers, livestock dealers or other persons acting directly as a buying agent for any third party;

(4) "Person", individuals, partnerships, corporations and associations;

(5) "State veterinarian", the state veterinarian of the Missouri state department of agriculture.

277.200. As used in sections 277.200 to 277.215, the following terms mean:

(1) "Department", the department of agriculture;

(2) "Livestock", live cattle, swine, **llamas, alpaca, buffalo**, or sheep;

(3) "Packer", a person who is engaged in the business of slaughtering livestock or receiving, purchasing or soliciting livestock for slaughtering, the meat products of which are directly or indirectly to be offered for resale or for public consumption. "Packer" includes an agent of the packer engaged in buying or soliciting livestock for slaughter on behalf of a packer. "Packer" does not include a cold storage plant, a frozen food locker plant exempt from federal inspection requirements, a livestock market or livestock auction agency, any cattle buyer who purchases twenty or fewer cattle per day or one hundred or fewer cattle per week, any hog buyer who purchases fifty or fewer hogs per day or two hundred fifty or fewer hogs per week, or any sheep buyer who purchases fifty or fewer sheep per day or two hundred fifty or fewer sheep per week.

281.040. 1. No private applicator shall use any restricted use pesticide unless he first complies with the requirements determined pursuant to subsection 2 or 5 of this section, as necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons, for that specific pesticide use.

2. The private applicator shall qualify for a certified private applicator's license by **either** attending a course **or completing an on-line course** of instruction provided by the director on the use, handling, storage and application of restricted use pesticides. The content of the instruction shall be determined and revised as necessary by the director. Upon completion of the course, the director shall issue a certified private applicator's license to the applicant. The director shall not collect a fee for the issuance of such license, **but the University of Missouri extension service may collect a fee for the actual cost of the**

materials necessary to complete the course of instruction. However, no fee shall be assessed or collected from an individual completing an on-line course of instruction. Both the director of the department and of the University of Missouri extension service shall review such costs annually.

3. A certified private applicator's license shall expire five years from date of issuance and may then be renewed without charge or additional fee. Any certified private applicator holding a valid license may renew that license for the next five years without additional training unless the director determines that additional knowledge related to the use of agricultural pesticides makes additional training necessary.

4. If the director does not qualify the private applicator under this section he shall inform the applicant in writing of the reasons therefor.

5. The private applicator may apply to the director, or his designated agent, for a private applicator permit for the one-time emergency purchase and use of restricted use pesticides. When the private applicator has demonstrated his competence in the use of the pesticides to be purchased and used on a one-time emergency basis, he shall be issued a permit for the one-time emergency purchase and use of restricted use pesticides. The director or his designated agent shall not collect a fee for the issuance of such permit.

311.554. 1. In addition to the charges imposed by section 311.550, there shall be paid to and collected by the director of revenue for the privilege of selling wine, an additional charge of six cents per gallon or fraction thereof. The additional charge shall be paid and collected in the same manner and at the same time that the charges imposed by section 311.550 are paid and collected.

2. **Until June 30, 2006**, the revenue derived from the additional charge imposed by subsection 1 shall be deposited by the state treasurer to the credit of a separate account in the marketing development fund created by section 261.035, RSMo. **Beginning July 1, 2006, the revenue derived from such additional charge shall be deposited by the state treasurer in the Missouri wine and grape fund created by this section.** Moneys to the credit of [the account shall be appropriated annually for use by the division of the state department of agriculture concerned with] **both the marketing development fund and the Missouri wine and grape fund shall be used only for** market development in developing programs for growing, selling, and marketing of grapes and grape products grown in Missouri, including all necessary funding for the employment of experts in the fields of viticulture and enology as deemed necessary, and programs aimed at improving marketing of all varieties of grapes grown in Missouri; and shall be appropriated and used for no other purpose.

3. **There is hereby created in the state treasury the "Missouri Wine and Grape Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and shall approve disbursements from the**

fund to the department of agriculture for use solely by the Missouri wine and grape board created under section 262.820, RSMo, in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration of this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. In addition to the charges imposed by subsection 1 of this section and section 311.550, there shall be paid to and collected by the director of revenue for the privilege of selling wine an additional charge of six cents per gallon or fraction thereof. **Until June 30, 2006**, this additional six cents per gallon shall be deposited by the state treasurer to the credit of a separate account in the marketing development fund created by section 261.035, RSMo. [Moneys to the credit account shall be appropriated annually for the use by the division of the Missouri department of agriculture concerned with the research and advisement of grapes and grape products in Missouri, including all necessary funding for the employment of experts in the fields of viticulture and enology.] **Beginning July 1, 2006, the revenue derived from such additional charge shall be deposited by the state treasurer in the Missouri wine and grape fund created in this section.**

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 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 may be claimed in the taxable year in which the contributor contributes funds to the authority. 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.

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

(1) "B-20", a blend of two fuels of twenty percent by volume biodiesel and eighty percent by volume petroleum-based diesel fuel;

(2) "Biodiesel", as defined in ASTM Standard PS121 or its subsequent standard specification for biodiesel fuel (B 100) blend stock for distillate fuels;

(3) "Eligible new generation cooperative", a nonprofit farmer-owned 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, as defined in section 348.430, RSMo.

2. Beginning with the 2002-03 school year and lasting through the [2005-06] **2011-12** school year, any school district may contract with an eligible new generation cooperative to purchase biodiesel fuel for its buses of a minimum of B-20 under conditions set out in subsection 3 of this section.

3. Every school district that contracts with an eligible new generation cooperative for biodiesel pursuant to subsection 2 of this section shall receive an additional payment through its state transportation aid payment pursuant to section 163.161, RSMo, so that the net price to the contracting district for biodiesel will not exceed the rack price of regular diesel. If there is no incremental cost difference between biodiesel above the rack price of regular diesel, then the state school aid program will not make payment for biodiesel purchased during the period where no incremental cost exists. The payment shall be made based on the incremental cost difference incrementally up to seven-tenths percent of the entitlement

authorized by section 163.161, RSMo, for the 1998-99 school year. The payment amount may be increased by four percent each year during the life of the program. No payment shall be authorized pursuant to this subsection or contract required pursuant to subsection 2 of this section if moneys are not appropriated by the general assembly.

4. The department of elementary and secondary education shall promulgate such rules as are necessary to implement this section, including but not limited to a method of calculating the reimbursement of the contracting school districts and waiver procedures if the amount appropriated does not cover the additional costs for the use of biodiesel. 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, 2001, shall be invalid and void.

Section B. Because immediate action is necessary to ensure continuation of services in a drainage or levee district after corporate dissolution, the repeal and reenactment of section 246.005 of section A of this act is deemed necessary, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 246.005 of section A of this act shall be in full force and effect upon its passage and approval.

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