

SECOND REGULAR SESSION

# SENATE BILL NO. 491

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MUNZLINGER.

Pre-filed December 1, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

4459S.011

## AN ACT

To repeal sections 262.815 and 414.255, RSMo, and to enact in lieu thereof two new sections relating to agriculture.

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

Section A. Sections 262.815 and 414.255, RSMo, are repealed and two  
2 new sections enacted in lieu thereof, to be known as sections 262.815 and  
3 414.255, to read as follows:

262.815. 1. This section shall be known and may be cited as the "Missouri  
2 Farmland Trust Act". The purpose of this section is to allow individuals and  
3 entities to donate[, gift, or otherwise convey] farmland to the state department  
4 of agriculture for the purpose of preserving the land as farmland and to further  
5 provide beginning farmers with an opportunity to farm by allowing long-term low  
6 and variable cost leases, thereby making it affordable for the next generation of  
7 farmers to continue to produce food, fiber, and fuel.

8 2. There is hereby created the "Missouri Farmland Trust" which shall be  
9 implemented in a manner to accomplish the following objectives:

- 10 (1) Protect and preserve Missouri's farmland;  
11 (2) Link new generations of prospective farmers with present farmers; and  
12 (3) Promote best practices in environmental, livestock, and land  
13 stewardship.

14 3. (1) There is hereby created within the department of agriculture the  
15 "Missouri Farmland Trust Advisory Board" which shall be comprised of five  
16 members appointed by the director of the department of agriculture. Members  
17 shall serve without compensation but, subject to appropriations, may be  
18 reimbursed for actual and necessary expenses.

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

19           (2) The board shall make recommendations to the director on the  
20 appropriate uses of farmland in the trust, criteria to be used to select applicants  
21 for the program, and review and make recommendations regarding applications  
22 to lease farmland in the trust.

23           (3) Members shall serve five-year terms, with each term beginning July  
24 first and ending June thirtieth; except that, of the members initially appointed  
25 two shall be appointed for a term of three years, two shall be appointed for a term  
26 of four years, and one shall be appointed for a term of five years. Each member  
27 shall serve until his or her successor is appointed. Any vacancies occurring prior  
28 to the expiration of a term shall be filled by appointment for the remainder of  
29 such term. No member shall serve more than two consecutive terms.

30           4. The department of agriculture is authorized to accept [or acquire by  
31 purchase, lease, donation, or agreement] **donations of** any agricultural lands,  
32 easements, real and personal property, or rights in lands, easements, or real and  
33 personal property, including but not limited to buildings, structures,  
34 improvements, equipment, or facilities subject to preservation and  
35 improvement. Such lands shall be properties of the Missouri farmland trust for  
36 purposes of this section and shall be governed by the provisions of this section  
37 and rules promulgated thereunder. **The department shall make payments**  
38 **to counties for the value of land as payment in lieu of real and personal**  
39 **property taxes for privately owned land acquired after August 28, 2011,**  
40 **in such amounts as determined by the department; except that, the**  
41 **amount determined shall not be less than the real property tax paid at**  
42 **the time of acquisition. The department of agriculture may require**  
43 **applicants who are awarded leases to pay the property taxes owed**  
44 **under this section for such property.**

45           5. (1) There is hereby created in the state treasury the "Missouri  
46 Farmland Trust Fund", which shall consist of all gifts, bequests, donations,  
47 transfers, and moneys appropriated by the general assembly under this  
48 section. The state treasurer shall be custodian of the fund. In accordance with  
49 sections 30.170 and 30.180, the state treasurer may approve  
50 disbursements. Upon appropriation, money in the fund shall be used for the  
51 administration of this section and may be used to make payments to counties [for  
52 the value of land as payment in lieu of real and personal property taxes for  
53 privately owned land acquired after August 28, 2011, in such amounts as  
54 determined by the department; except that, the amount determined shall not be

55 less than the real property tax paid at the time of acquisition. The department  
56 of agriculture may require applicants who are awarded leases to pay the property  
57 taxes owed under this section for such property] **as required under subsection**  
58 **4 of this section.**

59 (2) Notwithstanding the provisions of section 33.080 to the contrary, any  
60 moneys remaining in the fund at the end of the biennium shall not revert to the  
61 credit of the general revenue fund.

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

65 6. The department of agriculture is authorized to accept all moneys,  
66 appropriations, gifts, bequests, donations, or other contributions of moneys or  
67 other real or personal property to be expended or used for any of the purposes of  
68 this section. The department may improve, maintain, operate, and regulate any  
69 such lands, easements, or real or personal property to promote agriculture and  
70 the general welfare using moneys in the fund. Property acquired by the  
71 department under this section shall be used for agricultural purposes. The  
72 director shall establish by rule guidelines for leasing farmland [to] **from** the  
73 trust to beginning farmers for a period not to exceed twenty years. All property  
74 acquired by the department under this section shall be farmed and maintained  
75 using the best environmental, conservation, and stewardship practices as outlined  
76 by the department. The department may charge an administrative fee for lease  
77 application processing under this section.

78 7. The department, in consultation with the Missouri farmland advisory  
79 board, shall promulgate rules to implement the provisions of this section,  
80 including but not limited to requirements for lessees, selection process for  
81 granting leases, and the terms of the lease, including requirements for applicants,  
82 renewal process, requirements for the maintenance of real and personal property  
83 by the lessee, and conditions for the termination of leases.

84 8. Any person or entity donating land to or leasing land from the  
85 department shall forever release the state of Missouri, the Missouri department  
86 of agriculture, the department's director, officers, employees, volunteers, agents,  
87 contractors, servants, heirs, successors, assigns, persons, firms, corporations,  
88 representatives, and other entities who are or who will be acting in concert or  
89 privity with or on behalf of the state from any and all actions, claims, or demands  
90 that he or she, family members, heirs, successors, assigns, agents, servants,

91 employees, distributees, guardians, next-of-kin, spouse, and legal representatives  
92 now have or may have in the future for any injury, death, property damage  
93 related to:

94 (1) Participation in such activities;

95 (2) The negligence, intentional acts, or other acts, whether directly  
96 connected to such activities or not, and however caused; and

97 (3) The condition of the premises where such activities occur.

98 9. Any rule or portion of a rule, as that term is defined in section 536.010,  
99 that is created under the authority delegated in this section shall become effective  
100 only if it complies with and is subject to all of the provisions of chapter 536 and,  
101 if applicable, section 536.028. This section and chapter 536 are nonseverable and  
102 if any of the powers vested with the general assembly pursuant to chapter 536 to  
103 review, to delay the effective date, or to disapprove and annul a rule are  
104 subsequently held unconstitutional, then the grant of rulemaking authority and  
105 any rule proposed or adopted after August 28, 2011, shall be invalid and void.

414.255. 1. This section shall be known and may be cited as the "Missouri  
2 Renewable Fuel Standard Act".

3 2. For purposes of this section, the following terms shall mean:

4 (1) "Aviation fuel", any motor fuel specifically compounded for use in  
5 reciprocating aircraft engines;

6 (2) "Distributor", a person who either produces, refines, blends,  
7 compounds or manufactures motor fuel, imports motor fuel into a state or exports  
8 motor fuel out of a state, or who is engaged in distribution of motor fuel;

9 (3) "Fuel ethanol-blended gasoline", a mixture of ninety percent gasoline  
10 and ten percent fuel ethanol in which the fuel ethanol meets ASTM International  
11 Specification D4806, as amended. The ten percent fuel ethanol portion may be  
12 derived from any agricultural source;

13 (4) "Position holder", the person who holds the inventory position in motor  
14 fuel in a terminal, as reflected on the records of the terminal operator. A person  
15 holds the inventory position in motor fuel when that person has a contract with  
16 the terminal operator for the use of storage facilities and terminating services for  
17 motor fuel at the terminal. The term includes a terminal operator who owns  
18 motor fuel in the terminal;

19 (5) "Premium gasoline", gasoline with an antiknock index number of  
20 ninety-one or greater;

21 (6) "Price", the cost of the fuel ethanol plus fuel taxes and transportation

22 expenses less tax credits, if any; or the cost of the fuel ethanol-blended gasoline  
23 plus fuel taxes and transportation expenses less tax credits, if any; or the cost of  
24 the unblended gasoline plus fuel taxes and transportation expenses less tax  
25 credits, if any;

26 (7) "Qualified terminal", a terminal that has been assigned a terminal  
27 control number (tcn) by the Internal Revenue Service;

28 (8) "Supplier", a person that is:

29 (a) Registered or required to be registered pursuant to 26 U.S.C., Section  
30 4101, for transactions in motor fuels in the bulk transfer/terminal distribution  
31 system; and

32 (b) One or more of the following:

33 a. The position holder in a terminal or refinery in this state;

34 b. Imports motor fuel into this state from a foreign country;

35 c. Acquires motor fuel from a terminal or refinery in this state from a  
36 position holder pursuant to either a two-party exchange or a qualified buy-sell  
37 arrangement which is treated as an exchange and appears on the records of the  
38 terminal operator; or

39 d. The position holder in a terminal or refinery outside this state with  
40 respect to motor fuel which that person imports into this state. A terminal  
41 operator shall not be considered a supplier based solely on the fact that the  
42 terminal operator handles motor fuel consigned to it within a  
43 terminal. "Supplier" also means a person that produces fuel grade alcohol or  
44 alcohol-derivative substances in this state, produces fuel grade alcohol or  
45 alcohol-derivative substances for import to this state into a terminal, or acquires  
46 upon import by truck, rail car or barge into a terminal, fuel grade alcohol or  
47 alcohol-derivative substances. "Supplier" includes a permissive supplier unless  
48 specifically provided otherwise;

49 (9) "Terminal", a bulk storage and distribution facility which includes:

50 (a) For the purposes of motor fuel, is a qualified terminal;

51 (b) For the purposes of fuel grade alcohol, is supplied by truck, rail car,  
52 boat, barge or pipeline and the products are removed at a rack; and

53 (10) "Unblended gasoline", gasoline that has not been blended with fuel  
54 ethanol.

55 3. Except as otherwise provided under subsections 4 and 5 of this section,  
56 on and after January 1, 2008, all gasoline sold or offered for sale in Missouri at  
57 retail shall be fuel ethanol-blended gasoline.

58           4. If a distributor is unable to obtain fuel ethanol or fuel ethanol-blended  
59 gasoline from a position holder or supplier at the terminal at the same or lower  
60 price as unblended gasoline, then the purchase of unblended gasoline by the  
61 distributor and the sale of the unblended gasoline at retail shall not be deemed  
62 a violation of this section. The position holder, supplier, distributor, and ultimate  
63 vendor shall, upon request, provide the required documentation regarding the  
64 sales transaction and price of fuel ethanol, fuel ethanol-blended gasoline, and  
65 unblended gasoline to the department of agriculture and the department of  
66 revenue. All information obtained by the departments from such sources shall  
67 be confidential and not disclosed except by court order or as otherwise provided  
68 by law.

69           5. The following shall be exempt from the provisions of this section:

70           (1) Aviation fuel and automotive gasoline used in aircraft;

71           (2) Premium gasoline;

72           (3) E75-E85 fuel ethanol;

73           (4) Any specific exemptions declared by the United States Environmental  
74 Protection Agency; and

75           (5) Bulk transfers between terminals. The director of the department of  
76 agriculture may by rule exempt or rescind additional gasoline uses from the  
77 requirements of this section. The governor may by executive order waive the  
78 requirements of this section or any part thereof in part or in whole for all or any  
79 portion of this state for reasons related to air quality. Any regional waiver shall  
80 be issued and implemented in such a way as to minimize putting any region of  
81 the state at a competitive advantage or disadvantage with any other region of the  
82 state.

83           6. The provisions of section 414.152 shall apply for purposes of  
84 enforcement of this section.

85           7. The department of agriculture is hereby authorized to promulgate rules  
86 to ensure implementation of, and compliance and consistency with, this  
87 section. Any rule or portion of a rule, as that term is defined in section 536.010,  
88 that is created under the authority delegated in this section shall become effective  
89 only if it complies with and is subject to all of the provisions of chapter 536 and,  
90 if applicable, section 536.028. This section and chapter 536 are nonseverable and  
91 if any of the powers vested with the general assembly pursuant to chapter 536 to  
92 review, to delay the effective date, or to disapprove and annul a rule are  
93 subsequently held unconstitutional, then the grant of rulemaking authority and

94 any rule proposed or adopted after August 28, 2006, shall be invalid and void.

95 8. All terminals in Missouri that sell gasoline shall offer for sale, in  
96 cooperation with position holders and suppliers, fuel ethanol-blended gasoline,  
97 fuel ethanol, and unblended gasoline. Terminals that only offer for sale federal  
98 reformulated gasolines, in cooperation with position holders and suppliers, shall  
99 not be required to offer for sale unblended gasoline.

100 9. Notwithstanding any other law to the contrary, all fuel retailers,  
101 wholesalers, distributors, and marketers shall be allowed to purchase fuel ethanol  
102 from any terminal, position holder, fuel ethanol producer, fuel ethanol wholesaler,  
103 or supplier. In the event a court of competent jurisdiction finds that this  
104 subsection does not apply to or improperly impairs existing contractual  
105 relationships, then this subsection shall only apply to and impact future  
106 contractual relationships.

107 **10. No retail vendor of fuel ethanol-blended gasoline that is in**  
108 **compliance with the requirements of this section shall be liable for any**  
109 **damage to a customer's vehicle related to such customer's purchase of**  
110 **fuel ethanol-blended gasoline from the vendor. This subsection shall**  
111 **not be construed to offer protection from liability in cases of**  
112 **misconduct or negligence.**

✓

Copy