

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 122

AN ACT

To amend chapter 537, RSMo, by adding thereto one new section relating to a cause of action against a public body for offering certain services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

Section A. Chapter 537, RSMo, is amended by adding thereto one new section, to be known as section 537.048, to read as follows:

537.048. 1. This section shall be known and may be cited as the "Stop Socialism Act".

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

(1) "Competitive service", a wholesale or retail offering of a service by a person that is substantially similar to a service being offered by the public body;

(2) "Person", a person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, including any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, or an insurance

company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, or an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153, or an individual subject to the state income tax imposed by the provisions of chapter 143;

(3) "Public body", the state or any of its agencies, any county, city, town, village, or other political subdivision.

3. Any person shall have a cause of action against a public body if the public body provides, or offers to provide, a competitive service that is also provided by the person within the jurisdiction of the public body. The provisions of this subsection shall not apply if the person bringing the cause of action provided the competitive service after the public body began providing such service or if the public body demonstrates that there is an overriding or compelling public interest served by the competitive service. An overriding or compelling public interest in a competitive service includes, but shall not be limited to, services provided by the criminal justice system and activities and services of various kinds provided by educational institutions.

4. Upon showing by a preponderance of the evidence that the public body offers a competitive service that is also offered by the person to the economic detriment of the person, the court shall enjoin the public body from continuing to offer the competitive service that is the subject of the cause of action.