

FIRST REGULAR SESSION

HOUSE BILL NO. 75

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BLAND.

Pre-filed December 8, 2004 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0357L.011

AN ACT

To repeal sections 33.750, 33.752, 33.753, 33.756, 67.653, 70.379, 92.418, and 643.310, RSMo, and to enact in lieu thereof eight new sections relating to the Missouri minority business advocacy commission.

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

Section A. Sections 33.750, 33.752, 33.753, 33.756, 67.653, 70.379, 92.418, and
2 643.310, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as
3 sections 37.601, 37.604, 37.607, 37.610, 67.653, 70.379, 92.418, and 643.310, to read as
4 follows:

37.601. As used in this section and section 37.604:

2 (1) "Commission" refers to the Missouri minority business advocacy commission
3 established under section 37.604;

4 (2) "Contract" means any contract awarded by a state agency for construction
5 projects or the procurement of goods or services, including professional services;

6 (3) "Minority business enterprise" or "minority business" means an individual,
7 partnership, corporation, or joint venture of any kind that is owned and controlled by one
8 or more persons who are:

9 (a) United States citizens; and

10 (b) Members of a racial minority group;

11 (4) "Owned and controlled" means having:

12 (a) Ownership of at least fifty-one percent of the enterprise, including corporate
13 stock of a corporation;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 (b) Control over the management and day-to-day operations of the business; and
15 (c) An interest in the capital, assets, and profits and losses of the business
16 proportionate to the percentage of ownership;

17 (5) "Racial minority group" means:

18 (a) Blacks;

19 (b) American Indians;

20 (c) Hispanics;

21 (d) Asian Americans; and

22 (e) Other similar racial minority groups;

23 (6) "State agency" refers to an authority, board, branch, commission, committee,
24 department, division, or other instrumentality of the executive branch of state government.

**37.604. 1. There is hereby established the "Missouri Minority Business Advocacy
2 Commission". The commission shall consist of eleven members:**

3 (1) The commissioner of the office of administration;

4 (2) The director of the department of economic development;

5 (3) Three minority business persons, appointed by the governor, one of whom shall
6 be designated chairman of the commission;

7 (4) Two minority members of the house of representatives appointed by the speaker
8 of the house of representatives;

9 (5) Two minority members of the senate appointed by the president pro tempore
10 of the senate;

11 (6) One representative of labor; and

12 (7) One representative of nonminority business.

13

14 No more than two of the three members appointed by the governor shall be of the same
15 political party. Appointed members of the commission shall serve four-year terms, except
16 that of the initial appointments made by the governor, one shall be for a two-year term, one
17 shall be for a three-year term and one shall be for a four-year term. A vacancy occurs if
18 a legislative member leaves office for any reason. Any vacancy on the commission shall be
19 filled in the same manner as the original appointment.

20 2. The office of administration and the department of economic development shall
21 assist the commission in developing a plan to increase procurements from minority
22 businesses by all state departments. Such plan shall be in consultation with the state
23 disparity study of 1997 and as amended. Such plan shall be submitted to the governor and
24 general assembly by July, 2007, and biennially thereafter.

25 **3. Each member appointed by the governor shall receive as compensation a per**
26 **diem for each day devoted to the affairs of the commission and be reimbursed for his or**
27 **her actual and necessary expenses incurred in the discharge of his or her official duties.**

28 **4. Each legislative member of the commission is entitled to receive the same per**
29 **diem, mileage, and travel allowances paid to members of the general assembly serving on**
30 **interim committees. The allowances specified in this subsection shall be paid from the**
31 **amounts appropriated for that purpose.**

32 **5. The commission shall meet at least three times each year and at other times as**
33 **the chairman deems necessary.**

34 **6. The duties of the commission shall include, but not be limited to, the following:**

35 **(1) Identifying minority businesses in the state;**

36 **(2) Assessing the needs of minority businesses;**

37 **(3) Initiating aggressive programs to assist minority businesses in obtaining state**
38 **contracts and federal agency procurements;**

39 **(4) Giving special publicity to procurement, bidding, and qualifying procedures;**

40 **(5) Including minority businesses on solicitation mailing lists;**

41 **(6) Making recommendations regarding policies, programs and procedures to be**
42 **implemented by the commissioner of the office of administration;**

43 **(7) Preparing and maintaining timely data on minority business qualified to bid on**
44 **state and federal procurement projects;**

45 **(8) Preparing a review of the commission and the various affected departments of**
46 **government to be submitted to the governor and the general assembly on March first and**
47 **October first of each year, evaluating progress made in the areas defined in this subsection;**

48 **(9) Providing a focal point and assisting and counseling minority small businesses**
49 **in their dealings with federal, state and local governments regarding the obtaining of**
50 **business licenses and permits, including, but not limited to, providing ready access to**
51 **information regarding government requirements which affect minority small business;**

52 **(10) Analyzing current legislation and regulation as it affects minority business for**
53 **the purpose of determining methods of elimination or simplification of unnecessary**
54 **regulatory requirements;**

55 **(11) Assisting minority businesses in obtaining available technical and financial**
56 **assistance;**

57 **(12) Initiating and encouraging minority business education programs, including**
58 **programs in cooperation with various public and private educational institutions;**

59 **(13) Receiving complaints and recommendations concerning policies and activities**
60 **of federal, state and local governmental agencies which affect minority small businesses,**

61 and developing, in cooperation with the agency involved, proposals for changes in policies
62 or activities to alleviate any unnecessary adverse effects to minority small business.

63 7. The office of administration shall furnish administrative support and staff for
64 the effective operation of the commission.

37.607. 1. The Missouri minority business advocacy commission, as established
2 under section 37.604 shall, in addition to providing the governor with a plan to increase
3 procurement from minority businesses by all state departments as provided in subsection
4 2 of section 37.604, also provide to the general assembly the findings of such plan and
5 provide details of any recommended legislation that may be needed to carry out the
6 provisions of the plan. The commission shall submit the plan and recommended legislation
7 to the general assembly within six months of delivery of the original plan to the governor.

8 2. All retirement systems created under chapter 104, RSMo, and all retirement
9 plans defined under section 105.660, RSMo, shall develop a procurement and affirmative
10 action plan for the utilization of minority and women money managers, brokers, and
11 investment counselors. Such retirement systems and plans shall report their progress
12 annually to the Missouri minority business advocacy commission.

37.610. The minority business advocacy commission shall consult with the tourism
2 commission in establishing rules and regulations for African-American and other minority
3 business participation.

67.653. 1. The authority shall have the following powers:

2 (1) To acquire by gift, bequest, purchase, lease or sublease from public or private sources
3 and to plan, construct, operate and maintain, or to lease or sublease to or from others for
4 construction, operation and maintenance, convention centers, sports stadiums, field houses,
5 indoor and outdoor convention, recreational, and entertainment facilities and centers, playing
6 fields, parking facilities and other suitable concessions, and all things incidental or necessary to
7 a complex suitable for all types of convention, entertainment and meeting activities and for all
8 types of sports and recreation, either professional or amateur, commercial or private, either upon,
9 above or below the ground, except that no such stadium, complex or facility shall be used, in any
10 fashion, for the purpose of horse racing or dog racing, and any stadium, complex or facility
11 newly constructed by the authority shall be suitable for multiple purposes and designed and
12 constructed to meet National Football League franchise standards and shall be located adjacent
13 to an existing convention facility;

14 (2) To adopt bylaws for the regulation of its affairs and the conduct of its business;

15 (3) To maintain an office, and to conduct its meetings at such place or places in the city
16 or in the county as it may designate;

17 (4) To charge and collect fees and rents for use of the facilities owned or operated by it
18 or leased or subleased from or to others and to deposit any funds received under the provisions
19 of sections 67.650 to 67.658 in a savings or checking account in a bank, credit union, or savings
20 and loan association in this state;

21 (5) To adopt a common seal;

22 (6) To contract and to be contracted with, including, but without limitation, the authority
23 to enter into contracts with cities, counties and other political subdivisions and public agencies
24 under sections 70.210 to 70.325, RSMo, and otherwise, and to enter into contracts with other
25 entities, in connection with the acquisition by gift, bequest, purchase, lease or sublease and in
26 connection with the planning, construction, financing, leasing, subleasing, operation and
27 maintenance of any convention or sports facility and for any other lawful purpose, and to sue and
28 to be sued;

29 (7) To receive for its lawful activities any rentals, contributions or moneys appropriated
30 or otherwise designated for payment to the authority by municipalities, counties, state or other
31 political subdivisions or public agencies or by the federal government or any agency or officer
32 thereof or from any other source;

33 (8) To disburse funds for its lawful activities and fix salaries and wages of its officers
34 and employees;

35 (9) To invest any of the authority's funds in such types of investments as shall be
36 determined by a resolution adopted by the commissioners of the authority;

37 (10) To borrow money for the acquisition, planning, construction, equipping, operation,
38 maintenance, repair, extension and improvement of any facility, or any part or parts thereof,
39 which it has the power to own, lease or operate, and for any other proper corporate purpose, and
40 to issue negotiable notes, bonds, or other instruments in writing as evidence of sums borrowed,
41 as hereinafter provided in this section:

42 (a) Bonds issued hereunder shall be issued pursuant to a resolution adopted by the
43 commissioners of the authority which shall set out the estimated cost to the authority of the
44 proposed facility or facilities, and shall further set out the amount of bonds to be issued, their
45 purpose or purposes, their date or dates, denomination or denominations, rate or rates of interest,
46 time or times of payment, both of principal and of interest, place or places of payment and all
47 other details in connection therewith. Any such bonds may be subject to such provision for
48 redemption prior to maturity, with or without premium, and at such times and upon such
49 conditions as may be provided by the resolution;

50 (b) Notwithstanding the provisions of section 108.170, RSMo, such bonds shall bear
51 interest at such rate or rates determined by the authority and shall mature within a period not
52 exceeding fifty years and may be sold at public or private sale for not less than ninety-five

53 percent of the principal amount thereof. Bonds issued by the authority shall possess all of the
54 qualities of negotiable instruments under the laws of this state;

55 (c) Such bonds may be payable to bearer, may be registered or coupon bonds and if
56 payable to bearer, may contain such registration provisions as to either principal and interest, or
57 principal only, as may be provided in the resolution authorizing the same, which resolution may
58 also provide for the exchange of registered and coupon bonds. Such bonds and any coupons
59 attached thereto shall be signed in such manner and by such officers of the authority as may be
60 provided for by the resolution authorizing the same. The authority may provide for the
61 replacement of any bond which shall become mutilated, destroyed or lost;

62 (d) Bonds issued by the authority shall be payable as to principal, interest and
63 redemption premium, if any, out of all or any part of the general funds of the authority, including
64 rents, revenues, receipts and income derived and to be derived for the use of any facility or
65 combination of facilities, or any part or parts thereof, acquired, constructed, improved or
66 extended in whole or in part from the proceeds of such bonds, including but not limited to
67 convention center and stadium rentals, concessions, parking facilities and from funds derived
68 from any other facilities or part or parts thereof, owned or operated by the authority, all or any
69 part of which rents, revenues, receipts and income the authority is authorized to pledge for the
70 payment of said principal, interest, and redemption premium, if any, except that direct
71 appropriations of tax revenues received by the authority pursuant to sections 67.656 and 67.657
72 or otherwise, other than appropriations for the payment of rent, shall not be pledged for the
73 payment of such bonds. Neither the commissioners of the authority nor any person executing
74 its bonds shall be personally liable on such bonds by reason of the issuance thereof. Bonds
75 issued under the provisions of sections 67.653 to 67.655 shall not constitute a debt, liability, or
76 obligation of this state, or any political subdivision of this state, nor shall any such obligations
77 be a pledge of the faith and credit of this state, but shall be payable solely from the revenues and
78 assets held by the authority. The issuance of bonds under sections 67.653 to 67.655 shall not,
79 directly, indirectly, or contingently, obligate the state of Missouri or any political subdivision
80 thereof, or the authority, to levy any form of taxation therefor or to make any appropriation for
81 their payment. Each obligation or bond issued under sections 67.653 to 67.655 shall contain on
82 the face thereof a statement to the effect that the authority shall not be obligated to pay the same
83 nor the interest on such bond, except from the revenues received by the authority or assets of the
84 authority lawfully pledged therefor, and that neither the faith and credit nor the taxing power of
85 this state or of any political subdivision of this state is pledged to the payment of the principal
86 of or the interest on such obligation or bond. Bonds issued pursuant to this section may be
87 further secured by a mortgage, deed of trust, trust agreement, pledge agreement, assignment or
88 security agreement upon the rents, revenues, receipts and income herein referred to or any part

89 thereof, or upon any leasehold interest or other property owned by the authority, or any part
90 thereof, whether then owned or thereafter acquired, except that direct appropriations of tax
91 revenues received by the authority pursuant to sections 67.656 and 67.657 or otherwise, other
92 than appropriations for the payment of rent, shall not secure such bonds. The proceeds of such
93 bonds shall be disbursed in such manner and under such restrictions as the authority may provide
94 in the resolution authorizing the issuance of such bonds or in any such mortgage, deed of trust,
95 trust agreement, pledge agreement or security agreement;

96 (e) The authority shall fix and maintain rates and rentals and make and collect charges
97 for the use and services of its interest in the facility or facilities or any part thereof owned or
98 operated by the authority which shall be sufficient to pay the cost of operation and maintenance
99 thereof, to pay the principal of and interest on any such bonds payable from such rates, rentals
100 and charges and to provide funds sufficient to meet all requirements of the resolution by which
101 such bonds have been issued;

102 (f) The resolution authorizing the issuance of any such bonds may provide for the
103 allocation of rents, revenues, receipts and income derived and to be derived by the authority from
104 the use of any facility or part thereof, and of the proceeds received pursuant to sections 67.656
105 and 67.657, into such separate accounts as shall be deemed to be advisable to assure the proper
106 operation and maintenance of any facility or part thereof and the prompt payment of any bonds
107 issued to finance all or any part of the costs thereof. Such accounts may include reserve accounts
108 necessary for the proper operation and maintenance of any such facility or any part thereof, and
109 for the payment of any such bonds. Such resolution may include such other covenants and
110 agreements by the authority as in its judgment are advisable or necessary properly to secure the
111 payment of such bonds;

112 (g) The authority may issue negotiable refunding bonds for the purpose of refunding,
113 extending or unifying the whole or any part of such bonds then outstanding, or any bonds, notes
114 or other obligations issued by any other public agency, public body or political subdivision in
115 connection with any facilities to be acquired, leased or subleased by the authority, which
116 refunding bonds shall not exceed the amount necessary to refund the principal of the outstanding
117 bonds to be refunded and the accrued interest thereon to the date of such refunding, together with
118 any redemption premium, amounts necessary to establish reserve and escrow funds and all costs
119 and expenses incurred in connection with the refunding. The authority may provide for the
120 payment of interest on such refunding bonds at a rate in excess of the bonds to be refunded;

121 (h) In case any of the commissioners or officers of the authority whose signatures appear
122 on any bonds or coupons shall cease to be such commissioners or officers before the delivery of
123 such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same
124 as if such commissioners or officers had remained in office until such delivery;

125 (i) The authority is hereby declared to be performing a public function and bonds of the
126 authority are declared to be issued for an essential public and governmental purpose and,
127 accordingly, interest thereon and income therefrom shall be exempt from income taxation by the
128 state of Missouri;

129 (11) To condemn any and all rights or property of any kind or character, necessary for
130 the purposes of the authority, in the manner provided in chapter 523, RSMo, except that no
131 property now or hereafter vested in or held by the state, the county or the city shall be taken by
132 the authority without the authorization or consent of such party; provided however, that the
133 authority shall provide relocation benefits to all individuals and businesses, occupying said
134 property, in the same manner as such relocation benefits are provided pursuant to the federal
135 Relocation Assistance Act;

136 (12) To perform all other necessary and incidental functions, and to exercise such
137 additional powers as shall be conferred by the general assembly or by act of Congress.

138 2. The authority shall proceed to carry out its duties, functions and powers in accordance
139 with sections 67.650 to 67.658, and the authority is vested with all necessary and appropriate
140 powers not inconsistent with the constitution or the laws of the United States to effectuate the
141 same, except the power to levy taxes or assessments. In no event shall the state be liable for any
142 deficiency or indebtedness incurred by the authority.

143 3. The authority shall grant or award at least fifteen percent of all contracts, employment
144 opportunities, professional services and all other special contracts to persons who are members
145 of a racial minority group, as defined in section [33.750] **37.601**, RSMo.

146 4. The authority and any city, county, other political subdivision or public agency
147 obtaining funds pursuant to the provisions of this chapter shall be subject to the provisions of
148 sections 34.073 and 34.076, RSMo.

70.379. The bi-state development agency shall set and attain goals for the inclusion of
2 fifteen percent minority business enterprises, as defined in section [33.750] **37.601**, RSMo, and
3 five percent women business enterprises in all contracts for the operation of bus and rail services.
4 The attainment of such goals shall be based upon the availability of minority-owned businesses
5 operating within the urban area in Missouri that perform the services for which such contract is
6 to be awarded. This section shall become null and void when the agency meets the goals for two
7 consecutive years.

92.418. 1. All moneys received by a city imposing a sales tax pursuant to sections
2 92.400 to 92.421, less two percent for the cost of handling, which shall be deposited in the city's
3 general fund, shall be deposited by the city treasurer, or other city officer authorized by
4 ordinance, in a special fund to be known as the "Public Mass Transportation Trust Fund" for the

5 primary benefit of a public mass transportation system and motor pool operations operating
6 within the city.

7 2. The moneys in the public mass transportation trust fund accumulated by the city
8 beyond the end of the city's fiscal year in which such funds were collected, and not needed by
9 the city to meet its contractual obligations to an interstate transportation authority or for motor
10 pool operations, may be appropriated and paid directly to such interstate transportation authority
11 to be used by the interstate transportation authority for its general purposes in providing a public
12 mass transportation system within an interstate transportation district, or the city may appropriate
13 and expend such excess funds for the purposes set forth in section 30(a)(2), of article IV, of the
14 Constitution of Missouri, as amended.

15 3. A city may designate by contract from time to time with an interstate transportation
16 authority to provide specific services, frequency of service, to underwrite a certain fare structure
17 or for any purpose consistent with providing a sound public mass transportation system to serve
18 the city, and the city shall appropriate and pay directly to the interstate transportation authority
19 from the public mass transportation trust fund the amounts of money that the city finds is
20 sufficient to enable the interstate transportation authority to perform its contractual obligations
21 to the city, including intracommunity transit services, or a city may appropriate and pay all of the
22 funds on deposit in a public mass transportation trust fund directly to an interstate transportation
23 authority to be used by such interstate transportation authority for its general purposes in
24 providing a public mass transportation system within an interstate transportation district.

25 4. Any provisions of sections 92.400 to 92.421 to the contrary notwithstanding, seven
26 and one-half percent of the proceeds of any sales tax imposed under sections 92.400 to 92.421
27 that are appropriated and paid by a city to an interstate transportation authority shall be used only
28 by the city and the interstate transportation authority for the purchase of new equipment, for the
29 construction of public mass transportation facilities or for any other capital expenditures or
30 improvements to the property of the interstate transportation authority, or to pay the interest or
31 principal payments or to satisfy sinking fund requirements on any negotiable notes or bonds or
32 other instruments in writing issued by the interstate transportation authority for any of the above
33 purposes.

34 5. Ninety-two and one-half percent of the proceeds of any sales tax imposed under
35 sections 92.400 to 92.421 that are appropriated and paid by a city to an interstate transportation
36 authority shall be used to supply funds to be applied to the expenses of the organization and costs
37 of operation of the public mass transportation system and the facilities thereof, and may be used
38 to supply additional funds for capital expenditures as set forth in subsection 4 of this section.

39 6. Transportation authorities operating a public mass transportation system under
40 sections 92.400 to 92.421 may provide for interior and exterior advertising on each vehicle for
41 mass transportation purposes.

42 7. Transportation authorities operating a public mass transportation system under
43 sections 92.400 to 92.421 shall set and attain goals for the inclusion of minority business
44 enterprises as defined in section [33.750] **37.601**, RSMo, for contracts in operating motor pools,
45 construction, repairs and related projects for the public mass transportation system. The
46 attainment of such goals on these contracts shall be based on the availability of minority-owned
47 businesses operating within the city that perform the services for which such contract is to be
48 awarded.

643.310. 1. The commission may, by rule, establish a motor vehicle emissions
2 inspection program pursuant to sections 643.300 to 643.355 for any portion of a nonattainment
3 area located within the area described in subsection 1 of section 643.305, except for any portion
4 of the nonattainment area which is located in a county of the first classification without a charter
5 form of government with a population of less than one hundred thousand inhabitants according
6 to the most recent decennial census, except that the commission may establish a motor vehicle
7 emissions inspection program pursuant to sections 643.300 to 643.355 in such county only for
8 motor vehicles owned by residents of such county who have chosen to participate in such a
9 program in lieu of the provisions of section 307.366, RSMo. The commission shall ensure that,
10 for each nonattainment area, the state implementation plan established pursuant to subsection
11 1 of section 643.305 incorporates and receives all applicable credits allowed by the United States
12 Environmental Protection Agency for emission reduction programs in other nonattainment areas
13 of like designation in other states. The commission shall ensure that emission reduction amounts
14 established pursuant to subsection 2 of section 643.305 shall be consistent with and not exceed
15 the emissions reduction amounts required by the United States Environmental Protection Agency
16 for other nonattainment areas of like designation in other states. No motor vehicle emissions
17 inspection program shall be required to comply with subsection 1 of section 643.305 unless the
18 plan established thereunder takes full advantage of any changes in requirements or any
19 agreements made or entered into by the United States Environmental Protection Agency and any
20 entity or entities on behalf of a nonattainment area concerning compliance with National
21 Ambient Air Quality Standards of the federal Clean Air Act, as amended, 42 U.S.C. 7401, et
22 seq., and the regulations promulgated thereunder. The air conservation commission shall request
23 and it shall be the duty of the attorney general to bring, in a court of competent jurisdiction, an
24 action challenging the authority of the United States Environmental Protection Agency to impose
25 sanctions for failure to attain National Ambient Air Quality Standards and failure to provide for
26 required emission reductions under the federal Clean Air Act, as amended, 42 U.S.C. 7401, et

27 seq. The action shall seek to define the required emission reductions and the credits allowed for
28 current and planned emission reductions measures. The air conservation commission shall
29 request and it shall be the duty of the attorney general to bring an action to obtain injunctive
30 relief to enjoin and restrain the imposition of sanctions on the state of Missouri under the federal
31 Clean Air Act, as amended, 42 U.S.C. 7401, et seq., until all actions initiated pursuant to this
32 section have been decided. Provisions of section 307.366, RSMo, to the contrary
33 notwithstanding, the requirements of sections 643.300 to 643.355 shall apply to those areas
34 designated by the commission pursuant to this section in lieu of the provisions of section
35 307.366, RSMo.

36 2. No later than the effective date of this section, the department of natural resources and
37 the Missouri highway patrol shall enter into an interagency agreement covering all aspects of the
38 administration and enforcement of section 307.366, RSMo, and sections 643.300 to 643.355.

39 3. (1) The department, with the cooperation and approval of the commissioner of
40 administration, shall select a person or persons to operate an inspection facility or inspection
41 program pursuant to sections 643.300 to 643.355, under a bid procedure or under a negotiated
42 process or a combination thereof based on criteria and expectations established by the
43 department. This process may use either a licensing arrangement or contractual arrangement
44 with the selected party or parties. The selection of persons to operate inspection facilities or
45 inspection programs shall be exempt from the provisions of all site procurement laws. The
46 number of locations shall be no less than the number needed to provide adequate service to
47 customers and establish an emissions inspection program which satisfies the requirements of this
48 section. Each person who is authorized to operate a station pursuant to this section shall be
49 capable of providing adequate and cost-effective service to customers.

50 (2) Service management, coordination and data processing may be provided by the
51 department or by another person, including a contractor or licensee, based upon the most
52 cost-effective proposal for service.

53 (3) A license or contract shall be for a period of up to seven years, consistent with the
54 provisions of article IV, section 28 of the Missouri Constitution, and licenses or contracts shall
55 be annually reviewed. A license or contract may be suspended or revoked if the licensee or
56 contractor is not meeting the conditions of sections 643.300 to 643.355, all applicable rules, the
57 license agreement or contract as determined by the department. A licensee or contractor found
58 to have violated sections 643.300 to 643.355, applicable rules or the conditions of the license
59 agreement or contract shall be in violation of section 643.151 and subject to the penalties
60 provided thereunder.

61 4. The inspection program shall satisfy the following criteria:

62 (1) There shall be an adequate number of stations to ensure that no more than twenty
63 percent of all persons residing in an affected nonattainment area reside farther than five miles
64 from the nearest inspection station, and consideration shall be given to employment, locations
65 and commuting patterns when selecting the locations of the stations;

66 (2) There shall be an adequate number of inspection lanes at each facility so that no more
67 than five percent of all persons having an inspection are required to wait more than fifteen
68 minutes before the inspection begins;

69 (3) The days and daily hours of operation shall include at least those hours specified by
70 the department, which shall include, at a minimum, twelve continuous hours of operation on all
71 weekdays excepting federal holidays, and six continuous hours of operation on all Saturdays
72 excepting federal holidays;

73 (4) The emissions inspection program shall include a simulated on-road emissions
74 inspection component, including pressure and purge tests, which satisfies the requirements
75 established by regulation of the United States Environmental Protection Agency and may include
76 a visual inspection component;

77 (5) The inspection stations shall be test-only stations and shall not offer motor vehicle
78 emissions repairs, parts or services of any kind;

79 (6) No person operating or employed by an emissions inspection station shall repair or
80 maintain motor vehicle emission systems or pollution control devices for compensation of any
81 kind.

82 5. The commission, the department of economic development and the office of
83 administration shall, in cooperation with the minority business advocacy commission, select the
84 contractor or contractors to provide an inspection program which satisfies the minimum
85 requirements of this section in accordance with the requirements of [section 33.752, RSMo, and]
86 chapter 34, RSMo, **and section 37.604, RSMo**. The commission, the office of administration
87 and the department of economic development, in cooperation with the minority business
88 advocacy commission, shall ensure adequate minority business participation in the selection of
89 the contractor or contractors to provide an inspection program pursuant to this section. The
90 commission, the office of administration and the department of economic development shall
91 ensure adequate participation of Missouri businesses in the selection of the contractor or
92 contractors to provide an inspection program pursuant to this section.

93 6. With approval of the commission and pursuant to rules adopted by the commission,
94 an organization whose members are motor vehicle dealers or leasing companies may establish
95 one or more additional emissions inspection facilities, which may be either mobile or stationary,
96 to be used solely to inspect motor vehicles owned and held for sale or lease by the members of
97 the organization. With approval of the commission and pursuant to rules adopted by the

98 commission, any person operating a fleet of five hundred or more motor vehicles may establish
99 one or more additional emissions inspection facilities, which may be either mobile or stationary,
100 to be used solely to inspect motor vehicles owned or leased and operated by the person
101 establishing the facility. The inspections performed in facilities established pursuant to this
102 subsection shall be performed by a contractor selected by the commission pursuant to this section
103 and the contractor performing such inspections shall be responsible solely to the department and
104 shall satisfy all applicable requirements of sections 643.300 to 643.355.

105 7. Any person who owns Missouri analyzer system emission inspection equipment as
106 defined by rule, used to provide emissions inspections pursuant to section 307.366, RSMo, at
107 a facility located in an area in which an emissions inspection program has been established
108 pursuant to sections 643.300 to 643.355 may, within twelve months of the implementation of an
109 emissions inspection program pursuant to sections 643.300 to 643.355, sell such equipment to
110 the department of natural resources at current market value as established by an independent
111 appraisal provided that the equipment is fully functional and has been maintained according to
112 all applicable manufacturer's specifications and procedures. The department shall purchase such
113 equipment using funds appropriated for that purpose from the Missouri air emission reduction
114 fund. Any person who, prior to January 1, 1992, contracted to lease or lease purchase, or
115 purchased by borrowing a portion of the funds secured by a chattel mortgage, Missouri analyzer
116 system emission inspection equipment used to provide emissions inspections pursuant to section
117 307.366, RSMo, at a facility located in an area in which an emissions inspection program has
118 been established pursuant to sections 643.300 to 643.355, and has made all payments required
119 under the contract, may, within twelve months of the implementation of an emissions inspection
120 program pursuant to sections 643.300 to 643.355, request the department of natural resources
121 to take possession of such equipment and assume all payment obligations owed on such
122 equipment which obligations are not in excess of one hundred and twenty-five percent of the
123 current market value as established by an independent appraisal, provided that the equipment is
124 fully functional and has been maintained according to all applicable manufacturer's specifications
125 and procedures. The department shall take possession of such equipment and pay such
126 obligations using funds appropriated for that purpose from the Missouri air emission reduction
127 fund.

128 8. If the governor applies to the administrator of the Environmental Protection Agency
129 to require federal reformulated gasoline in nonattainment areas, nothing in sections 643.300 to
130 643.355 shall prevent the storage of conventional gasoline in nonattainment areas which is
131 intended for sale to agricultural, commercial or retail customers outside said nonattainment areas
132 subject to reformulated gasoline.

133 9. The governor, the department of natural resources, and the commission shall work to
 134 ensure an orderly transition period in the nonattainment area for the introduction of reformulated
 135 gasoline. Priority shall be given to ensure the petroleum refiners ample time to organize,
 136 structure, and implement both the production and the delivery of reformulated gasoline to the
 137 nonattainment area, so that consumers will see an orderly, seamless market substitution.

[33.750. As used in this section and section 33.752:

- 2 (1) "Commission" refers to the Missouri minority business development
 3 commission established under section 33.752;
 4 (2) "Contract" means any contract awarded by a state agency for
 5 construction projects or the procurement of goods or services, including
 6 professional services;
 7 (3) "Minority business enterprise"
 8 or "minority business" means an individual, partnership, corporation, or joint
 9 venture of any kind that is owned and controlled by one or more persons who are:
 10 (a) United States citizens; and
 11 (b) Members of a racial minority group;
 12 (4) "Owned and controlled" means having:
 13 (a) Ownership of at least fifty-one percent of the enterprise, including
 14 corporate stock of a corporation;
 15 (b) Control over the management and day-to-day operations of the
 16 business; and
 17 (c) An interest in the capital, assets, and profits and losses of the business
 18 proportionate to the percentage of ownership;
 19 (5) "Racial minority group" means:
 20 (a) Blacks;
 21 (b) American Indians;
 22 (c) Hispanics;
 23 (d) Asian Americans; and
 24 (e) Other similar racial minority groups;
 25 (6) "State agency" refers to an authority, board, branch, commission,
 26 committee, department, division, or other instrumentality of the executive branch
 27 of state government.]
 28

[33.752. 1. There is hereby established the "Missouri Minority Business
 2 Advocacy Commission". The commission shall consist of nine members:

- 3 (1) The director of the department of economic development;
 4 (2) The commissioner of the office of administration;
 5 (3) Three minority business persons, appointed by the governor, one of
 6 whom shall be designated chairman of the commission;
 7 (4) Two members of the house of representatives appointed by the
 8 speaker of the house of representatives;

9 (5) Two members of the senate appointed by the president pro tempore
10 of the senate.

11 No more than two of the three members appointed by the governor may be of the
12 same political party. Appointed members of the commission shall serve
13 four-year terms, except that of the initial appointments made by the governor, one
14 shall be for a two-year term, one shall be for a three-year term and one shall be
15 for a four-year term. A vacancy occurs if a legislative member leaves office for
16 any reason. Any vacancy on the commission shall be filled in the same manner
17 as the original appointment.

18 2. The department of economic development and the office of
19 administration shall develop a plan to increase procurements from minority
20 businesses by all state departments and submit that plan to the governor by July,
21 1994.

22 3. Each member appointed by the governor shall receive as compensation
23 a per diem of up to thirty-five dollars for each day devoted to the affairs of the
24 commission and be reimbursed for his actual and necessary expenses incurred in
25 the discharge of his official duties.

26 4. Each legislative member of the commission is entitled to receive the
27 same per diem, mileage, and travel allowances paid to members of the general
28 assembly serving on interim committees. The allowances specified in this
29 subsection shall be paid from the amounts appropriated for that purpose.

30 5. The commission shall meet at least three times each year and at other
31 times as the chairman deems necessary.

32 6. The duties of the commission shall include, but not be limited to, the
33 following:

34 (1) Identify minority businesses in the state;

35 (2) Assess the needs of minority businesses;

36 (3) Initiate aggressive programs to assist minority businesses in obtaining
37 state contracts and federal agency procurements;

38 (4) Give special publicity to procurement, bidding, and qualifying
39 procedures;

40 (5) Include minority businesses on solicitation mailing lists;

41 (6) Make recommendations regarding policies, programs and procedures
42 to be implemented by the commissioner of the office of administration;

43 (7) Prepare and maintain timely data on minority business qualified to
44 bid on state and federal procurement projects;

45 (8) Prepare a review of the commission and the various affected
46 departments of government to be submitted to the governor and the general
47 assembly on March first and October first of each year, evaluating progress made
48 in the areas defined in this subsection;

49 (9) Provide a focal point and assist and counsel minority small businesses
50 in their dealings with federal, state and local governments regarding the obtaining
51 of business licenses and permits, including, but not limited to, providing ready

52 access to information regarding government requirements which affect minority
53 small business;

54 (10) Analyze current legislation and regulation as it affects minority
55 business for the purpose of determining methods of elimination or simplification
56 of unnecessary regulatory requirements;

57 (11) Assist minority businesses in obtaining available technical and
58 financial assistance;

59 (12) Initiate and encourage minority business education programs,
60 including programs in cooperation with various public and private educational
61 institutions;

62 (13) Receive complaints and recommendations concerning policies and
63 activities of federal, state and local governmental agencies which affect minority
64 small businesses, and develop, in cooperation with the agency involved,
65 proposals for changes in policies or activities to alleviate any unnecessary adverse
66 effects to minority small business.

67 7. The department of economic development shall furnish administrative
68 support and staff for the effective operation of the commission.]

69

2 [33.753. The Missouri minority business advocacy commission, as
3 established pursuant to section 33.752 shall, in addition to providing the governor
4 with a plan to increase procurement from minority businesses by all state
5 departments as provided in subsection 2 of section 33.752, also provide to the
6 general assembly the findings of such plan and provide details of any
7 recommended legislation that may be needed to carry out the provisions of the
8 plan. The commission shall submit the plan and recommended legislation to the
9 general assembly within six months of delivery of the original plan to the
10 governor.]

10

2 [33.756. The minority business development commission shall consult
3 with the tourism commission in establishing rules and regulations for
African-American and other minority business participation.]

3