

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1137
93RD GENERAL ASSEMBLY

Reported from the Committee on Commerce, Energy and the Environment, May 5, 2006, with recommendation that the Senate Committee Substitute do pass.

3328S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 144.030 and 144.062, RSMo, and to enact in lieu thereof twelve new sections relating to motor fuels.

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

Section A. Sections 144.030 and 144.062, RSMo, are repealed and twelve
2 new sections enacted in lieu thereof, to be known as sections 144.030, 144.062,
3 640.800, 640.803, 640.806, 640.809, 640.812, 640.815, 640.818, 640.821, 640.824,
4 and 640.827, to read as follows:

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

10 2. There are also specifically exempted from the provisions of the local
11 sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and
12 sections 144.010 to 144.525 and 144.600 to 144.761 and from the computation of
13 the tax levied, assessed or payable pursuant to the local sales tax law as defined
14 in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525
15 and 144.600 to 144.745:

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

16 (1) Motor fuel or special fuel subject to an excise tax of this state, unless
17 all or part of such excise tax is refunded pursuant to section 142.824, RSMo; or
18 upon the sale at retail of fuel to be consumed in manufacturing or creating gas,
19 power, steam, electrical current or in furnishing water to be sold ultimately at
20 retail; or feed for livestock or poultry; or grain to be converted into foodstuffs
21 which are to be sold ultimately in processed form at retail; or seed, limestone or
22 fertilizer which is to be used for seeding, liming or fertilizing crops which when
23 harvested will be sold at retail or will be fed to livestock or poultry to be sold
24 ultimately in processed form at retail; economic poisons registered pursuant to
25 the provisions of the Missouri pesticide registration law (sections 281.220 to
26 281.310, RSMo) which are to be used in connection with the growth or production
27 of crops, fruit trees or orchards applied before, during, or after planting, the crop
28 of which when harvested will be sold at retail or will be converted into foodstuffs
29 which are to be sold ultimately in processed form at retail;

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

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

45 (4) Replacement machinery, equipment, and parts and the materials and
46 supplies solely required for the installation or construction of such replacement
47 machinery, equipment, and parts, used directly in manufacturing, mining,
48 fabricating or producing a product which is intended to be sold ultimately for
49 final use or consumption; and machinery and equipment, and the materials and
50 supplies required solely for the operation, installation or construction of such
51 machinery and equipment, purchased and used to establish new, or to replace or

52 expand existing, material recovery processing plants in this state. For the
53 purposes of this subdivision, a "material recovery processing plant" means a
54 facility that has as its primary purpose the recovery of materials into a useable
55 product or a different form which is used in producing a new product and shall
56 include a facility or equipment which are used exclusively for the collection of
57 recovered materials for delivery to a material recovery processing plant but shall
58 not include motor vehicles used on highways. For purposes of this section, the
59 terms "motor vehicle" and "highway" shall have the same meaning pursuant to
60 section 301.010, RSMo. Material recovery is not the reuse of materials within a
61 manufacturing process or the use of a product previously recovered. The material
62 recovery processing plant shall qualify under the provisions of this section
63 regardless of ownership of the material being recovered;

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

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

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

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

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

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

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

87 (12) Electrical energy used in the actual primary manufacture, processing,

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

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

103 (14) Machinery, equipment, appliances and devices purchased or leased
104 and used solely for the purpose of preventing, abating or monitoring air pollution,
105 and materials and supplies solely required for the installation, construction or
106 reconstruction of such machinery, equipment, appliances and devices, and so
107 certified as such by the director of the department of natural resources, except
108 that any action by the director pursuant to this subdivision may be appealed to
109 the air conservation commission which may uphold or reverse such action;

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

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

119 (17) All amounts paid or charged for admission or participation or other
120 fees paid by or other charges to individuals in or for any place of amusement,
121 entertainment or recreation, games or athletic events, including museums, fairs,
122 zoos and planetariums, owned or operated by a municipality or other political
123 subdivision where all the proceeds derived therefrom benefit the municipality or

124 other political subdivision and do not inure to any private person, firm, or
125 corporation;

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

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

147 (20) All sales of aircraft to common carriers for storage or for use in
148 interstate commerce and all sales made by or to not-for-profit civic, social, service
149 or fraternal organizations, including fraternal organizations which have been
150 declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the
151 1986 Internal Revenue Code, as amended, in their civic or charitable functions
152 and activities and all sales made to eleemosynary and penal institutions and
153 industries of the state, and all sales made to any private not-for-profit institution
154 of higher education not otherwise excluded pursuant to subdivision (19) of this
155 subsection or any institution of higher education supported by public funds, and
156 all sales made to a state relief agency in the exercise of relief functions and
157 activities;

158 (21) All ticket sales made by benevolent, scientific and educational
159 associations which are formed to foster, encourage, and promote progress and

160 improvement in the science of agriculture and in the raising and breeding of
161 animals, and by nonprofit summer theater organizations if such organizations are
162 exempt from federal tax pursuant to the provisions of the Internal Revenue Code
163 and all admission charges and entry fees to the Missouri state fair or any fair
164 conducted by a county agricultural and mechanical society organized and
165 operated pursuant to sections 262.290 to 262.530, RSMo;

166 (22) All sales made to any private not-for-profit elementary or secondary
167 school, all sales of feed additives, medications or vaccines administered to
168 livestock or poultry in the production of food or fiber, all sales of pesticides used
169 in the production of crops, livestock or poultry for food or fiber, all sales of
170 bedding used in the production of livestock or poultry for food or fiber, all sales
171 of propane or natural gas, electricity or diesel fuel used exclusively for drying
172 agricultural crops, natural gas used in the primary manufacture or processing of
173 fuel ethanol as defined in section 142.028, RSMo, natural gas, propane, and
174 electricity used by an eligible new generation cooperative or an eligible new
175 generation processing entity as defined in section 348.432, RSMo, and all sales
176 of farm machinery and equipment, other than airplanes, motor vehicles and
177 trailers. As used in this subdivision, the term "feed additives" means tangible
178 personal property which, when mixed with feed for livestock or poultry, is to be
179 used in the feeding of livestock or poultry. As used in this subdivision, the term
180 "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and
181 other assorted pesticide carriers used to improve or enhance the effect of a
182 pesticide and the foam used to mark the application of pesticides and herbicides
183 for the production of crops, livestock or poultry. As used in this subdivision, the
184 term "farm machinery and equipment" means new or used farm tractors and such
185 other new or used farm machinery and equipment and repair or replacement
186 parts thereon, and supplies and lubricants used exclusively, solely, and directly
187 for producing crops, raising and feeding livestock, fish, poultry, pheasants,
188 chukar, quail, or for producing milk for ultimate sale at retail, including field
189 drain tile, and [one-half of each purchaser's] the purchase of [diesel] motor fuel,
190 as defined in section 142.800, RSMo, therefor which is:

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

196 livestock or poultry to be sold ultimately in processed form at retail;

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

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

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

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

232 classification may, between the first day of the first month and the fifteenth day
233 of the fourth month following the year of purchase, apply for credit or refund to
234 the director of revenue and the director shall give credit or make refund for taxes
235 paid on the domestic use portion of the purchase. The person making such
236 purchases on behalf of occupants of residential apartments or condominiums shall
237 have standing to apply to the director of revenue for such credit or refund;

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

242 (25) Excise taxes, collected on sales at retail, imposed by Sections 4041,
243 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United
244 States Code. The director of revenue shall promulgate rules pursuant to chapter
245 536, RSMo, to eliminate all state and local sales taxes on such excise taxes;

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

252 (27) All sales made to an interstate compact agency created pursuant to
253 sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo, in the
254 exercise of the functions and activities of such agency as provided pursuant to the
255 compact;

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

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

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

266 (31) Electrical energy or gas, whether natural, artificial or propane, water,
267 or other utilities which are ultimately consumed in connection with the

268 manufacturing of cellular glass products or in any material recovery processing
269 plant as defined in subdivision (4) of subsection 2 of this section;

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

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

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

277 (35) All sales of feed which are developed for and used in the feeding of
278 pets owned by a commercial breeder when such sales are made to a commercial
279 breeder, as defined in section 273.325, RSMo, and licensed pursuant to sections
280 273.325 to 273.357, RSMo;

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

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

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

303 (37) Tangible personal property purchased for use or consumption directly

304 or exclusively in research or experimentation activities performed by life science
305 companies and so certified as such by the director of the department of economic
306 development or the director's designees; except that, the total amount of
307 exemptions certified pursuant to this section shall not exceed one million three
308 hundred thousand dollars in state and local taxes per fiscal year. For purposes
309 of this subdivision, the term "life science companies" means companies whose
310 primary research activities are in agriculture, pharmaceuticals, biomedical or food
311 ingredients, and whose North American Industry Classification System (NAICS)
312 Codes fall under industry 541710 (biotech research or development laboratories),
313 621511 (medical laboratories) or 541940 (veterinary services). The exemption
314 provided by this subdivision shall expire on June 30, 2003;

315 (38) All sales or other transfers of tangible personal property to a lessor
316 who leases the property under a lease of one year or longer executed or in effect
317 at the time of the sale or other transfer to an interstate compact agency created
318 pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100,
319 RSMo; and

320 (39) Sales of tickets to any collegiate athletic championship event that is
321 held in a facility owned or operated by a governmental authority or commission,
322 a quasi-governmental agency, a state university or college or by the state or any
323 political subdivision thereof, including a municipality, and that is played on a
324 neutral site and may reasonably be played at a site located outside the state of
325 Missouri. For purposes of this subdivision, "neutral site" means any site that is
326 not located on the campus of a conference member institution participating in the
327 event.

144.062. 1. With respect to exempt sales at retail of tangible personal
2 property and materials for the purpose of constructing, repairing or remodeling
3 facilities for: (1) a county, other political subdivision or instrumentality thereof
4 exempt from taxation under subdivision (10) of section 39 of article III of the
5 Constitution of Missouri; or (2) an organization sales to which are exempt from
6 taxation under the provisions of subdivision (19) of subsection 2 of section
7 144.030; or (3) any institution of higher education supported by public funds or
8 any private not-for-profit institution of higher education, exempt from taxation
9 under subdivision (20) of subsection 2 of section 144.030; or (4) any private
10 not-for-profit elementary or secondary school exempt from taxation under
11 subdivision (22) of subsection 2 of section 144.030; or (5) after June 30, 2007:
12 (a) the department of transportation; or (b) the state highways and

13 transportation commission, hereinafter collectively referred to as exempt
14 entities, such exemptions shall be allowed for such purchases if the purchases are
15 related to the entities' exempt functions and activities. In addition, the sales
16 shall not be rendered nonexempt nor shall any material supplier or contractor be
17 obligated to pay, collect or remit sales tax with respect to such purchases made
18 by or on behalf of an exempt entity due to such purchases being billed to or paid
19 for by a contractor or the exempt entity contracting with any entity to render any
20 services in relation to such purchases, including but not limited to selection of
21 materials, ordering, pickup, delivery, approval on delivery, taking of delivery,
22 transportation, storage, assumption of risk of loss to materials or providing
23 warranties on materials as specified by contract, use of materials or other
24 purchases for construction of the building or other facility, providing labor,
25 management services, administrative services, design or technical services or
26 advice to the exempt entity, whether or not the contractor or other entity
27 exercises dominion or control in any other manner over the materials in
28 conjunction with services or labor provided to the exempt entity.

29 2. When any exempt entity contracts for the purpose of constructing,
30 repairing or remodeling facilities, and purchases of tangible personal property
31 and materials to be incorporated into or consumed in the construction of the
32 project are to be made on a tax-exempt basis, such entity shall furnish to the
33 contractor an exemption certificate authorizing such purchases for the
34 construction, repair or remodeling project. The form and content of such project
35 exemption certificate shall be approved by the director of revenue. The project
36 exemption certificate shall include but not be limited to:

37 (1) The exempt entity's name, address, Missouri tax identification number
38 and signature of authorized representative;

39 (2) The project location, description, and unique identification number;

40 (3) The date the contract is entered into, which is the earliest date
41 materials may be purchased for the project on a tax-exempt basis;

42 (4) The estimated project completion date; and

43 (5) The certificate expiration date.

44 Such certificate is renewable for a given project at the option of the exempt
45 entity, only for the purpose of revising the certificate expiration date as necessary
46 to complete the project.

47 3. The contractor shall furnish the certificate prescribed in subsection 2
48 of this section to all subcontractors, and any contractor purchasing materials

49 shall present such certificate to all material suppliers as authorization to
50 purchase, on behalf of the exempt entity, all tangible personal property and
51 materials to be incorporated into or consumed in the construction of that project
52 and no other on a tax-exempt basis. Such suppliers shall execute to the
53 purchasing contractor invoices bearing the name of the exempt entity and the
54 project identification number. Nothing in this section shall be deemed to exempt
55 the purchase of any construction machinery, equipment or tools used in
56 constructing, repairing or remodeling facilities for the exempt entity. All invoices
57 for all personal property and materials purchased under a project exemption
58 certificate shall be retained by the purchasing contractor for a period of five years
59 and shall be subject to audit by the director of revenue.

60 4. Any excess resalable tangible personal property or materials which
61 were purchased for the project by a contractor under a project exemption
62 certificate but which were not incorporated into or consumed in the construction
63 of the project shall either be returned to the supplier for credit or the appropriate
64 sales or use tax on such excess property or materials shall be reported on a
65 return and paid by such contractor not later than the due date of the contractor's
66 Missouri sales or use tax return following the month in which it was determined
67 that the materials were not to be used in the project.

68 5. No contractor or material supplier shall, upon audit, be required to pay
69 tax on tangible personal property and materials incorporated into or consumed
70 in the construction of the project, due to the failure of the exempt entity to revise
71 the certificate expiration date as necessary to complete any work required by the
72 contract. If it is determined that tax is owed on such property and materials due
73 to the failure of the exempt entity to revise such certificate expiration date, the
74 exempt entity shall be liable for the tax owed.

75 6. If an entity issues exemption certificates for the purchase of tangible
76 personal property and materials which are incorporated into or consumed in the
77 construction of its project and such entity is found not to have had the authority
78 granted by this section to issue such exemption certificates, then such entity shall
79 be liable for the tax owed on such personal property and materials. In addition,
80 if an entity which does have the authority granted by this section to issue
81 exemption certificates issues such certificates for the purchase of tangible
82 personal property and materials which are incorporated into or consumed in the
83 construction of a project, or part of a project, which is found not to be related to
84 such entity's exempt functions and activities, then such entity shall be liable for

85 the tax owed on such personal property and materials.

640.800. As used in sections 640.800 to 640.824 the following
2 terms shall mean:

3 (1) "Alternative fuel", any of the following:

4 (a) Biodiesel used separately or in mixtures of twenty percent
5 known as B-20 or up to B-100;

6 (b) Electric;

7 (c) Ethanol used separately or in mixtures of seventy percent or
8 more by volume mixed with gasoline;

9 (d) Fuels derived from biological materials such as ethanol,
10 biodiesel, or other recognized additives;

11 (e) Hydrogen;

12 (f) Natural gas either as compressed natural or liquefied natural
13 gas;

14 (g) Propane liquefied petroleum gas;

15 (2) "Alternative fuel infrastructure project", fueling stations or
16 sites, fueling tanks and trucks, charging stations, and other equipment
17 used to fuel alternative fuel vehicles or produce alternative fuels;

18 (3) "Alternative fuel vehicle", a vehicle that has been developed
19 for, and is intended to be operated using one or more alternative fuel;

20 (4) "Alternative fuel provider", a person or organization that
21 produces or sells alternative fuel;

22 (5) "Bi-fuel vehicle", an alternative fuel vehicle capable of
23 running on either an alternative fuel or gasoline;

24 (6) "Board", the clean American fuel board created under section
25 640.803;

26 (7) "Conventional vehicle", a vehicle running only on gasoline,
27 reformulated gasoline, or diesel fuel;

28 (8) "Dedicated vehicle", an alternative fuel vehicle that can only
29 be operated using an alternative fuel;

30 (9) "Department", the department of natural resources;

31 (10) "Director", the director of the department of natural
32 resources;

33 (11) "Dual-fuel vehicle", an alternative fuel vehicle capable of
34 running on an alternative fuel and either gasoline or diesel during
35 some portion of its operations;

36 (12) "Flex-fuel vehicle" an alternative fuel vehicle capable of

37 operating on gasoline fuel with an alternative fuel in various
38 combinations;

39 (13) "Fund", the alternative fuel vehicle revolving fund created
40 under section 640.812;

41 (14) "Hybrid vehicle", a vehicle that is powered by an electric
42 motor and an engine combusting an alternative fuel, gasoline, or diesel
43 fuel;

44 (15) "Incremental cost" or "differential cost", the difference in
45 price between an alternative fuel vehicle and a conventional vehicle of
46 the same make and model as provided by the original equipment
47 manufacturer or the difference in price between conventional fuels
48 such as gasoline and diesel or an alternative fuel;

49 (16) "Person", an individual, a business, a corporation, unit of
50 municipal or county government, but does not mean any unit of the
51 federal government.

640.803. There is hereby established the "The Clean American
2 Fuel Board". The board shall consist of eight members. The governor
3 shall appoint seven members to the board, one member from the
4 ethanol industry, one member from the natural gas industry, one
5 member from the liquefied petroleum gas industry, one member from
6 the biodiesel industry, one member from the fuel marketer/retailer
7 industry, one member from the Kansas City Regional Clean City
8 Coalition and one from the St. Louis Clean City Coalition. The director
9 shall be an ex officio member of the board as well as its chairperson.

640.806. Members of the board shall not be compensated for their
2 services, but they shall be reimbursed for actual and necessary
3 expenses incurred in the performance of their duties. The members of
4 the board shall elect one member as vice chairperson, such member
5 shall serve as chairperson in the absence of the director. Each member
6 appointed by the governor shall serve for a term of two years and may
7 be reappointed by the governor for an additional term of two
8 years. The department of natural resources shall provide staff to the
9 board and aid it in the performance of its duties.

640.809. The specific duties of the board shall include, but not be
2 limited to, the following:

3 (1) Establishing and administering policies determined in
4 consultation with other state agencies, including the departments of

5 transportation, environment, and natural resources as well as
6 interested organizations and businesses to comply with environmental
7 and energy regulations of the United States Department of Energy and
8 the Environmental Protection Agency;

9 (2) Preparing a report, including, but not limited to, a
10 calculation of fuel cost differential rebates and designation of certified
11 conversion and original equipment manufacturer technologies. Such
12 report shall be prepared by January 1, 2007, and updated every year
13 thereafter. Such report shall be made available to the governor, the
14 general assembly, the department of natural resources, and the
15 department of transportation;

16 (3) Preparing a report on the number of alternative fuel vehicles
17 registered in Missouri and of the expenditure of funds under sections
18 640.800 to 640.824. Such report shall be prepared by January 1, 2007,
19 and updated every year thereafter. Such report shall be made available
20 to the governor, the general assembly, the department of natural
21 resources, and the department of transportation;

22 (4) Establishing a procedure for persons to apply for grants from
23 the fund under sections 640.815, and selecting persons who shall
24 receive such grants;

25 (5) Establishing a procedure, consistent with the requirements
26 under section 640.821, for persons to apply for rebates from the fund
27 under section 640.818, and selecting persons who shall receive such
28 rebates.

640.812. 1. There is hereby created in the state treasury the
2 "Alternative Fuel Vehicle Revolving Fund", which shall consist of
3 moneys appropriated to the fund by the general assembly, and any
4 other moneys donated to or accepted by the board. The state treasurer
5 shall be custodian of the fund and may approve disbursements from the
6 fund in accordance with sections 30.170 and 30.180, RSMo. Upon
7 appropriation, money in the fund shall be used solely for the
8 administration of sections 640.800 to 640.824.

9 2. Notwithstanding the provisions of section 33.080, RSMo, to the
10 contrary, any moneys remaining in the fund at the end of the biennium
11 shall not revert to the credit of the general revenue fund.

12 3. The state treasurer shall invest moneys in the fund in the
13 same manner as other funds are invested. Any interest and moneys

14 earned on such investments shall be credited to the fund.

640.815. 1. A person may be eligible for a grant from the fund in
2 an amount of up to twenty-five percent of the cost of an alternative fuel
3 vehicle infrastructure project that is selected by the board. Such grant
4 shall not exceed one hundred thousand dollars per project.

5 2. A person may be eligible for a grant from the fund in an
6 amount of up to twenty-five percent of the total cost of installing a
7 public access American fuels infrastructure project. Such grant shall
8 not exceed one hundred thousand dollars per project, and no person
9 shall receive more than two hundred thousand annually.

10 3. Any funds not used by a grantee under this section shall be
11 returned to the treasurer and deposited into the fund.

12 4. To qualify for a grant under this section, the infrastructure
13 shall be accessible to the public or serve vehicles used by the public, or
14 for the public benefit by reducing harmful air emissions. Priority shall
15 be given to projects serving ten or more vehicles in counties at risk for
16 nonattainment penalties under federal Environmental Protection
17 Agency regulations.

18 5. Up to ten percent of the grants from the fund may be used for
19 education awareness and outreach activities such as the "Clean Cities",
20 Missouri Green Fleets.

640.818. 1. A person who has purchased an alternative fuel
2 vehicle weighing less than eight thousand five hundred pounds gross
3 weight, either from an original equipment manufacturer dealer or that
4 has been retrofitted with a kit certified by the board may be eligible for
5 up to eighteen thousand dollars in rebates, in a year, to be made from
6 the fund. Such rebates shall be:

7 (1) Up to eighty percent of the incremental cost for an original
8 equipment manufacturer dedicated vehicle, with a maximum of three
9 thousand dollars per vehicle;

10 (2) Up to eighty percent of the incremental cost for an original
11 equipment manufacturer bi-fuel vehicle, with a maximum of two
12 thousand dollars per vehicle;

13 (3) Up to ten percent of the incremental cost for a hybrid vehicle,
14 with a maximum of five hundred dollars per vehicle;

15 (4) Up to ten percent of the total purchase price for all other
16 dedicated alternative fuel vehicles and hybrid vehicles that have no

17 comparable conventional model on which to base incremental cost
18 calculations, with a maximum of one thousand dollars per vehicle.

19 2. A person who has purchased an alternative fuel vehicle
20 weighing more than eight thousand five hundred pounds gross weight,
21 either through an original equipment manufacturer or that has been
22 retrofitted with a kit certified by the board, may be eligible for the
23 following rebates from the fund:

24 (1) Up to fifty percent of the incremental cost for a dedicated
25 vehicle, with a maximum of ten thousand dollars per vehicle;

26 (2) Up to fifty percent of the incremental cost for a bi-fuel,
27 flex-fuel, or hybrid vehicle, with a maximum of ten thousand dollars per
28 vehicle;

29 (3) Up to ten percent of the total purchase price for all other
30 dedicated alternative fuel vehicles and hybrid vehicles designated as
31 eligible by the administering agency that have no comparable
32 conventional model on which to base incremental cost calculations,
33 with a maximum of ten thousand per vehicle.

34 3. A person who leases for at least three years an alternative fuel
35 vehicle shall be eligible for the rebate in subsections 1 and 2 of this
36 section in the same manner as those persons who purchase an
37 alternative fuel vehicle.

38 4. A person may be eligible for a yearly rebate, to be made from
39 the fund, in the amount equal to ten percent of the person's cost of
40 alternative fuel with a maximum of five thousand dollars a year. To be
41 eligible for such rebate, fuel shall be purchased from a Missouri fuel
42 provider.

640.821. 1. An application for a rebate under subsection 1 or 2
2 of section 640.818 shall be made upon a form furnished by the
3 department. Such form shall include:

4 (1) Evidence of the ownership and license registration of the
5 alternative fuel vehicle;

6 (2) A signed statement that the evidence of ownership and
7 license registration and all other representations in the application are
8 made under oath or affirmation and are true and correct to the best
9 knowledge and belief of the person applying, subject to the penalties
10 of making a false affidavit or declaration;

11 (3) Any other information the board deems necessary to

12 determine eligibility for rebate under subsection 1 or 2 of section
13 640.818.

14 2. An application for a rebate under subsection 3 of section
15 640.818 shall be made upon a form furnished by the department. Such
16 form shall include:

17 (1) Evidence that the person applying for the rebate is the lessee
18 of the alternative fuel vehicle;

19 (2) A signed statement that the evidence of lessee status and all
20 other representations in the application are made under oath or
21 affirmation and are true and correct to the best knowledge and belief
22 of the person applying, subject to the penalties of making a false
23 affidavit or declaration;

24 (3) Any other information the board deems necessary to
25 determine eligibility for rebate under subsection 3 of section 640.818.

26 3. An application for a rebate under subsection 4 of section
27 640.818 shall be made upon a form furnished by the department. Such
28 form shall include:

29 (1) Evidence of the person's purchase of alternative fuel,
30 including copies of or original fuel receipts;

31 (2) A signed statement that the evidence of purchase of
32 alternative fuel and all other representations in the application are
33 made under oath or affirmation and are true and correct to the best
34 knowledge and belief of the person applying, subject to the penalties
35 of making a false affidavit or declaration;

36 (3) Any other information the board deems necessary to
37 determine eligibility for rebate under subsection 4 of section 640.818.

 640.824. 1. The department shall promulgate rules necessary for
2 the administration of sections 640.800 to 640.824 and necessary to aid
3 the board in its functions under sections 640.800 to 640.824.

4 2. Any rule or portion of a rule, as that term is defined in section
5 536.010, RSMo, that is created under the authority delegated in this
6 section shall become effective only if it complies with and is subject to
7 all of the provisions of chapter 536, RSMo, and, if applicable, section
8 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
9 and if any of the powers vested with the general assembly pursuant to
10 chapter 536, RSMo, to review, to delay the effective date, or to
11 disapprove and annul a rule are subsequently held unconstitutional,

12 then the grant of rulemaking authority and any rule proposed or
13 adopted after August 28, 2006, shall be invalid and void.

640.827. Pursuant to section 23.253, RSMo, of the Missouri Sunset
2 Act:

3 (1) The provisions of the new program authorized under sections
4 640.800 to 640.824 shall automatically sunset six years after the
5 effective date of sections 640.800 to 640.824 unless reauthorized by an
6 act of the general assembly; and

7 (2) If such program is reauthorized, the program authorized
8 under sections 640.800 to 640.824 shall automatically sunset twelve
9 years after the effective date of the reauthorization of sections 640.800
10 to 640.824; and

11 (3) This section shall terminate on September first of the
12 calendar year immediately following the calendar year in which the
13 program authorized under sections 640.800 to 640.824 is sunset.

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