

SECOND REGULAR SESSION

# HOUSE BILL NO. 1391

## 98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE KING.

4568H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 620.1910, RSMo, and to enact in lieu thereof one new section relating to the manufacturing jobs act.

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

Section A. Section 620.1910, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 620.1910, to read as follows:

620.1910. 1. This section shall be known and may be cited as the "Manufacturing Jobs Act".

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

(1) "Approval", a document submitted by the department to the qualified manufacturing company or qualified supplier that states the benefits that may be provided under this section;

(2) "Capital investment", expenditures made by a qualified manufacturing company to retool or reconfigure a manufacturing facility directly related to the manufacturing of a new product or the expansion or modification of the manufacture of an existing product;

(3) "County average wage", the same meaning as such term is defined in section 620.1878;

(4) "Department", the department of economic development;

(5) "Facility", a building or buildings located in Missouri at which the qualified manufacturing company manufactures a product;

(6) "Full-time job", a job for which a person is compensated for an average of at least thirty-five hours per week for a twelve-month period, and one for which the qualified manufacturing company or qualified supplier offers health insurance and pays at least fifty percent of such insurance premiums;

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.

18 (7) "NAICS industry classification", the most recent edition of the North American  
19 Industry Classification System as prepared by the Executive Office of the President, Office of  
20 Management and Budget;

21 (8) "New job", the same meaning as such term is defined in section 620.1878;

22 (9) "New product", a new model or line of a manufactured good that has not been  
23 manufactured in Missouri by the qualified manufacturing company at any time prior to the date  
24 of the notice of intent, or an existing brand, model, or line of a manufactured good that is  
25 redesigned with more than seventy-five percent new exterior body parts and incorporates new  
26 powertrain options;

27 (10) "Notice of intent", a form developed by the department, completed by the qualified  
28 manufacturing company or qualified supplier and submitted to the department which states the  
29 qualified manufacturing company's or qualified supplier's intent to create new jobs or retain  
30 current jobs and make additional capital investment, as applicable, and request benefits under  
31 this section. The notice of intent shall specify the minimum number of such new or retained jobs  
32 and the minimum amount of such capital investment;

33 (11) "Qualified manufacturing company", a business with a NAICS code of 33611 that:

34 (a) Manufactures goods at a facility in Missouri;

35 (b) In the case of the manufacture of a new product, commits to make a capital  
36 investment of at least seventy-five thousand dollars per retained job within no more than two  
37 years of the date the qualified manufacturing company begins to retain withholding tax under this  
38 section, or in the case of the modification or expansion of the manufacture of an existing product,  
39 commits to make a capital investment of at least fifty thousand dollars per retained job within  
40 no more than two years of the date the qualified manufacturing company begins to retain  
41 withholding tax under this section;

42 (c) Manufactures a new product or has commenced making capital improvements to the  
43 facility necessary for the manufacturing of such new product, or modifies or expands the  
44 manufacture of an existing product or has commenced making capital improvements to the  
45 facility necessary for the modification or expansion of the manufacture of such existing product;  
46 and

47 (d) Continues to meet the requirements of paragraphs (a) to (c) of this subdivision for  
48 the withholding period;

49 (12) "Qualified supplier", a manufacturing company that:

50 (a) Attests to the department that it derives more than ten percent of the total annual sales  
51 of the company from sales to a qualified manufacturing company;

52 (b) Adds five or more new jobs;

53 (c) Has an average wage, as defined in section 135.950, for such new jobs that are equal  
54 to or exceed the lower of the county average wage for Missouri as determined by the department  
55 using NAICS industry classifications, but not lower than sixty percent of the statewide average  
56 wage; and

57 (d) Provides health insurance for all full-time jobs and pays at least fifty percent of the  
58 premiums of such insurance;

59 (13) "Retained job", the number of full-time jobs of persons employed by the qualified  
60 manufacturing company located at the facility that existed as of the last working day of the  
61 month immediately preceding the month in which notice of intent is submitted;

62 (14) "Statewide average wage", an amount equal to the quotient of the sum of the total  
63 gross wages paid for the corresponding four calendar quarters divided by the average annual  
64 employment for such four calendar quarters, which shall be computed using the Quarterly  
65 Census of Employment and Wages Data for All Private Ownership Businesses in Missouri, as  
66 published by the Bureau of Labor Statistics of the United States Department of Labor;

67 (15) "Withholding period", the seven- or ten-year period in which a qualified  
68 manufacturing company may receive benefits under this section;

69 (16) "Withholding tax", the same meaning as such term is defined in section 620.1878.

70 3. The department shall respond within thirty days to a qualified manufacturing company  
71 or a qualified supplier who provides a notice of intent with either an approval or a rejection of  
72 the notice of intent. Failure to respond on behalf of the department shall result in the notice of  
73 intent being deemed an approval for the purposes of this section.

74 4. A qualified manufacturing company that manufactures a new product may, upon the  
75 department's approval of a notice of intent and the execution of an agreement that meets the  
76 requirements of subsection 9 of this section, but no earlier than January 1, 2012, retain one  
77 hundred percent of the withholding tax from full-time jobs at the facility for a period of ten years.  
78 A qualified manufacturing company that modifies or expands the manufacture of an existing  
79 product may, upon the department's approval of a notice of intent and the execution of an  
80 agreement that meets the requirements of subsection 9 of this section, but no earlier than January  
81 1, 2012, retain fifty percent of the withholding tax from full-time jobs at the facility for a period  
82 of seven years. Except as otherwise allowed under subsection 7 of this section, the  
83 commencement of the withholding period may be delayed by no more than twenty-four months  
84 after execution of the agreement at the option of the qualified manufacturing company. Such  
85 qualified manufacturing company shall be eligible for participation in the Missouri quality jobs  
86 program in sections 620.1875 to 620.1890 for any new jobs for which it does not retain  
87 withholding tax under this section, provided all qualifications for such program are met.

88           5. A qualified supplier may, upon approval of a notice of intent by the department, retain  
89 all withholding tax from new jobs for a period of three years from the date of approval of the  
90 notice of intent or for a period of five years if the supplier pays wages for the new jobs equal to  
91 or greater than one hundred twenty percent of county average wage. Notwithstanding any other  
92 provision of law to the contrary, a qualified supplier that is awarded benefits under this section  
93 shall not receive any tax credit or exemption or be entitled to retain withholding under sections  
94 100.700 to 100.850, sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535,  
95 sections 135.900 to 135.906, sections 135.950 to 135.970, or section 620.1881 for the same jobs.

96           6. Notwithstanding any other provision of law to the contrary, the maximum amount of  
97 withholding tax that may be retained by any one qualified manufacturing company under this  
98 section shall not exceed ten million dollars per calendar year. The aggregate amount of  
99 withholding tax that may be retained by all qualified manufacturing companies under this section  
100 shall not exceed fifteen million dollars per calendar year.

101           7. Notwithstanding any other provision of law to the contrary, any qualified  
102 manufacturing company that is awarded benefits under this section shall not simultaneously  
103 receive tax credits or exemptions under sections 100.700 to 100.850, sections 135.100 to  
104 135.150, sections 135.200 to 135.286, section 135.535, or sections 135.900 to 135.906 for the  
105 jobs created or retained or capital improvement which qualified for benefits under this section.  
106 The benefits available to the qualified manufacturing company under any other state programs  
107 for which the qualified manufacturing company is eligible and which utilize withholding tax  
108 from the jobs at the facility shall first be credited to the other state program before the applicable  
109 withholding period for benefits provided under this section shall begin. These other state  
110 programs include, but are not limited to, the Missouri works jobs training program under sections  
111 620.800 to 620.809, the real property tax increment allocation redevelopment act under sections  
112 99.800 to 99.865, or the Missouri downtown and rural economic stimulus act under sections  
113 99.915 to 99.980. If any qualified manufacturing company also participates in the Missouri  
114 works jobs training program in sections 620.800 to 620.809, such qualified manufacturing  
115 company shall not retain any withholding tax that has already been allocated for use in the [new  
116 jobs training] **Missouri works job training** program. Any qualified manufacturing company  
117 or qualified supplier that is awarded benefits under this program and knowingly hires individuals  
118 who are not allowed to work legally in the United States shall immediately forfeit such benefits  
119 and shall repay the state an amount equal to any withholding taxes already retained. Subsection  
120 5 of section 285.530 shall not apply to qualified manufacturing companies or qualified suppliers  
121 which are awarded benefits under this program.

122           8. The department may promulgate rules to implement the provisions of this section.  
123 Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the

124 authority delegated in this section shall become effective only if it complies with and is subject  
125 to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and  
126 chapter 536 are nonseverable and if any of the powers vested with the general assembly under  
127 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are  
128 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed  
129 or adopted after the effective date of this section shall be invalid and void.

130 9. Within six months of completion of a notice of intent required under this section, the  
131 qualified manufacturing company shall enter into an agreement with the department that  
132 memorializes the content of the notice of intent, the requirements of this section, and the  
133 consequences for failing to meet such requirements, which shall include the following:

134 (1) If the amount of capital investment made by the qualified manufacturing company  
135 is not made within the two-year period provided for such investment, the qualified manufacturing  
136 company shall immediately cease retaining any withholding tax with respect to jobs at the facility  
137 and it shall forfeit all rights to retain withholding tax for the remainder of the withholding period.  
138 In addition, the qualified manufacturing company shall repay any amounts of withholding tax  
139 retained plus interest of five percent per annum. However, in the event that such capital  
140 investment shortfall is due to economic conditions beyond the control of the qualified  
141 manufacturing company, the director may, at the qualified manufacturing company's request,  
142 suspend rather than terminate its privilege to retain withholding tax under this section for up to  
143 three years. Any such suspension shall extend the withholding period by the same amount of  
144 time. No more than one such suspension shall be granted to a qualified manufacturing company;

145 (2) If the qualified manufacturing company discontinues the manufacturing of the new  
146 product and does not replace it with a subsequent or additional new product manufactured at the  
147 facility at any time during the withholding period, the qualified manufacturing company shall  
148 immediately cease retaining any withholding tax with respect to jobs at that facility and it shall  
149 forfeit all rights to retain withholding tax for the remainder of the withholding period.

150 10. Prior to March first each year, the department shall provide a report to the general  
151 assembly including the names of participating qualified manufacturing companies or qualified  
152 suppliers, location of such companies or suppliers, the annual amount of benefits provided, the  
153 estimated net state fiscal impact including direct and indirect new state taxes derived, and the  
154 number of new jobs created or jobs retained.

155 11. Under section 23.253 of the Missouri sunset act:

156 (1) The provisions of the new program authorized under this section shall automatically  
157 sunset [October 12, 2016] **October 12, 2028**, unless reauthorized by an act of the general  
158 assembly; and

159           (2) If such program is reauthorized, the program authorized under this section shall  
160 automatically sunset twelve years after the effective date of the reauthorization of this section;  
161 and

162           (3) This section shall terminate on September first of the calendar year immediately  
163 following the calendar year in which the program authorized under this section is sunset.

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