

HOUSE BILL NO. 2425

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES NOLTE (Sponsor), ALLEN, KOMO, PARKINSON, KOENIG, DIECKHAUS, DIEHL, KELLY, FAITH, MEADOWS, LEARA, SILVEY, NIEVES, FLOOK, CORCORAN, JONES (63), CHAPPELLE-NADAL, ZERR, FUNDERBURK AND VOGT (Co-sponsors).

5471L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 620, RSMo, by adding thereto one new section relating to job growth.

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

Section A. Chapter 620, RSMo, is amended by adding thereto one new section, to be
2 known as section 620.1915, to read as follows:

**620.1915. 1. This section shall be known and may be cited as the "Transportation
2 and Warehouse Jobs Act".**

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

4 **(1) "Approval", a document submitted by the department to the qualified**
5 **transportation facility or qualified warehouse that states the benefits that may be provided**
6 **under this section;**

7 **(2) "Department", the department of economic development;**

8 **(3) "Employee" or "employees", a person or persons employed by a qualified**
9 **transportation facility or qualified warehouse;**

10 **(4) "NAICS", the 1997 edition of the North American Industry Classification**
11 **System as prepared by the Executive Office of the President, Office of Management and**
12 **Budget;**

13 **(5) "New job", the number of full-time employees located at the project facility or**
14 **warehouse that exceeds the project facility or warehouse base employment less any**
15 **decrease in the number of full-time employees at related facilities or warehouses below the**
16 **related facility or warehouse base employment. No job that was created prior to the date**

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.

17 of the notice of intent shall be deemed a new job. An employee that spends less than fifty
18 percent of the employee's work time at the facility or warehouse is still considered to be
19 located at a facility or warehouse if the employee receives his or her directions and control
20 from that facility or warehouse, is on the facility's or warehouse's payroll, one hundred
21 percent of the employee's income from such employment is Missouri income, and the
22 employee is paid at or above the industry average wage for Missouri as determined by the
23 department using NAICS industry classifications;

24 (6) "Notice of intent", a form developed by the department, completed by the
25 qualified transportation facility or qualified warehouse and submitted to the department
26 which states the qualified transportation facility's or qualified warehouse's intent to hire
27 new jobs or retain current jobs and request benefits under this section;

28 (7) "Qualified transportation facility", a business that:

29 (a) Derives more than twenty-five percent of total sales revenues of the facility from
30 goods transported or distributed from the facility which are exported outside of the United
31 States or sold to the federal government for export outside the United States or that derives
32 more than fifty percent of all total sales revenues of the facility from goods transported or
33 distributed from the facility which are exported outside the state of Missouri;

34 (b) Makes an additional capital investment of at least fifty thousand dollars per
35 full-time employee equivalent retained at the facility;

36 (c) Transports or distributes a new product that has not been transported or
37 distributed in Missouri any time prior to the date of the notice of intent;

38 (d) Adds five or more employees at the facility; and

39 (e) Continues to transport or distribute such goods meeting paragraphs (a) to (d)
40 of this subdivision for a period of at least five years from the date of the notice of intent;

41 (8) "Qualified warehouse", facility that:

42 (a) Houses a new product that has not been housed in Missouri any time prior to
43 the date of the notice of intent;

44 (b) Makes an additional capital investment of at least fifty thousand dollars per
45 full-time employee equivalent retained at the facility; and

46 (c) Adds five or more new jobs;

47 (9) "Retained job", the number of full-time employees located at the project facility
48 or warehouse that existed in the taxable year immediately preceding the year in which
49 application for the program is made;

50 (10) "Taxpayer", any individual or entity subject to the tax imposed in chapter 143,
51 excluding withholding tax imposed by sections 143.191 to 143.265, or the tax imposed in
52 chapter 147, 148, or 153;

53 (11) "Withholding tax", the state tax imposed by sections 143.191 to 143.265.

54 3. The department shall respond within thirty days to a qualified transportation
55 facility or a qualified warehouse who provides a notice of intent to receive benefits under
56 this section with either an approval or a rejection of the notice of intent. Failure to respond
57 on behalf of the department shall result in the notice of intent being deemed an approval
58 for the purposes of this section. A qualified transportation facility or qualified warehouse
59 who is provided an approval shall be allowed a benefit as provided in this section.

60 4. A qualified transportation facility or qualified warehouse may, upon approval
61 of a notice of intent by the department, retain fifty percent of the withholding tax from
62 retained jobs for a period of ten years. The method of determining the amount to be
63 withheld shall be prescribed by regulations of the department. Such qualified
64 transportation facility or qualified warehouse shall be eligible for participation in the
65 Missouri quality jobs program in sections 620.1875 to 620.1890, provided the facility or
66 warehouse meets all qualifications for that program, for all new jobs created at the
67 qualified transportation facility or qualified warehouse.

68 5. Notwithstanding any provision of law to the contrary, any qualified
69 transportation facility or qualified warehouse that is awarded benefits under this section
70 shall not simultaneously receive tax credits or exemptions under sections 135.100 to
71 135.150, sections 135.200 to 135.286, section 135.535, or sections 135.900 to 135.906. The
72 benefits available to the qualified transportation facility or qualified warehouse under any
73 other state programs for which the qualified transportation facility or qualified warehouse
74 is eligible and which utilize withholding tax from the new jobs of the qualified
75 transportation facility or qualified warehouse shall first be credited to the other state
76 program before the withholding retention level applicable under this section will begin to
77 accrue. These other state programs include, but are not limited to, the new jobs training
78 program under sections 178.892 to 178.896, the job retention program under sections
79 178.760 to 178.764, the real property tax increment allocation redevelopment act, sections
80 99.800 to 99.865, or the Missouri downtown and rural economic stimulus act under sections
81 99.915 to 99.980. If any qualified transportation facility or qualified warehouse also
82 participates in the new jobs training program in sections 178.892 to 178.896, such qualified
83 transportation facility or qualified warehouse shall not retain any withholding tax that has
84 already been allocated for use in the new jobs training program. Any taxpayer who is
85 awarded benefits under this program who knowingly hires individuals who are not allowed
86 to work legally in the United States shall immediately forfeit such benefits and shall repay
87 the state an amount equal to any withholding taxes already retained. Subsection 5 of
88 section 285.530 shall not apply to taxpayers awarded benefits under this program.

89 **6. The department may promulgate rules to implement the provisions of this**
90 **section. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
91 **created under the authority delegated in this section shall become effective only if it**
92 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
93 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**
94 **vested with the general assembly under chapter 536 to review, to delay the effective date,**
95 **or to disapprove and annul a rule are subsequently held unconstitutional, then the grant**
96 **of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be**
97 **invalid and void.**

98 **7. Under section 23.253, of the Missouri sunset act:**

99 **(1) The provisions of the new program authorized under this section shall**
100 **automatically sunset six years after the effective date of this section unless reauthorized by**
101 **an act of the general assembly; and**

102 **(2) If such program is reauthorized, the program authorized under this section**
103 **shall automatically sunset twelve years after the effective date of the reauthorization of this**
104 **section; and**

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

107 **8. If a qualified transportation facility or qualified warehouse fails to comply with**
108 **all provisions of this section, the department shall issue a final decision to that effect and**
109 **such facility or warehouse shall repay all benefits previously obtained from the state with**
110 **interest of five percent per annum from the date the benefit was originally received by such**
111 **facility or warehouse. A final decision of the department under this subsection shall be**
112 **subject to review by the administrative hearing commission under the provisions of**
113 **chapter 621 and may be further appealed as provided by law.**

114 **9. Prior to March first each year, the department shall provide a report to the**
115 **general assembly including the names of participating qualified transportation facilities**
116 **or qualified warehouses, location of such facilities or warehouses, the annual amount of**
117 **benefits provided, the estimated net state fiscal impact (direct and indirect new state taxes**
118 **derived), and the number of new jobs created or jobs retained.**

✓