

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1348

AN ACT

To repeal sections 142.028, 254.020, 254.040, 261.110, 261.230, 261.235, 261.239, 263.531, 270.170, 275.464, 311.554, 348.430, 348.432, 407.750, 407.751, 407.752, 407.850, 407.860, 407.870, 407.890, 407.892, 407.893 and 414.032, RSMo, relating to agriculture, and to enact in lieu thereof twenty-six new sections relating to the same subject, with penalty provisions and a severability clause.

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

1 Section A. Sections 142.028, 254.020, 254.040, 261.110,
2 261.230, 261.235, 261.239, 263.531, 270.170, 275.464, 311.554,
3 348.430, 348.432, 407.750, 407.751, 407.752, 407.850, 407.860,
4 407.870, 407.890, 407.892, 407.893 and 414.032, RSMo, are
5 repealed and twenty-six new sections enacted in lieu thereof, to
6 be known as sections 142.028, 142.031, 254.020, 254.040, 254.225,
7 261.110, 261.120, 261.230, 261.235, 261.239, 261.240, 263.531,
8 270.170, 270.260, 270.400, 275.464, 311.554, 348.430, 348.432,
9 407.850, 407.860, 407.870, 414.032, 414.043, 701.383 and 1, to
10 read as follows:

11 142.028. 1. As used in this section, the following terms
12 mean:

13 (1) "Fuel ethanol", one hundred ninety-eight proof ethanol
14 denatured in conformity with the United States Bureau of Alcohol,

1 Tobacco and Firearms' regulations and fermented and distilled in
2 a facility whose principal (over fifty percent) feed stock is
3 cereal grain or cereal grain by-products;

4 (2) "Fuel ethanol blends", a mixture of ninety percent
5 gasoline and ten percent fuel ethanol in which the gasoline
6 portion of the blend or the finished blend meets the American
7 Society for Testing and Materials - specification number D-439;

8 (3) "Missouri qualified fuel ethanol producer", any
9 producer of fuel ethanol whose principal place of business and
10 facility for the fermentation and distillation of fuel ethanol is
11 located within the state of Missouri and is at least fifty-one
12 percent owned by agricultural producers actively engaged in
13 agricultural production for commercial purposes, and which has
14 made formal application, posted a bond, and conformed to the
15 requirements of this section.

16 2. The "Missouri Qualified Fuel Ethanol Producer Incentive
17 Fund" is hereby created and subject to appropriations shall be
18 used to provide economic subsidies to Missouri qualified fuel
19 ethanol producers pursuant to this section. The director of the
20 department of agriculture shall administer the fund pursuant to
21 this section.

22 3. A Missouri qualified fuel ethanol producer shall be
23 eligible for a monthly grant from the fund, except that a
24 Missouri qualified fuel ethanol producer shall only be eligible
25 for the grant for a total of sixty months unless such producer
26 during those sixty months failed, due to a lack of
27 appropriations, to receive the full amount from the fund for
28 which they were eligible, in which case such producers shall

1 continue to be eligible for up to twenty-four additional months
2 or until they have received the maximum amount of funding for
3 which they were eligible during the original sixty month time
4 period. The amount of the grant is determined by calculating the
5 estimated gallons of qualified fuel ethanol production to be
6 produced from Missouri agricultural products for the succeeding
7 calendar month, as certified by the department of agriculture,
8 and applying such figure to the per-gallon incentive credit
9 established in this subsection. Each Missouri qualified fuel
10 ethanol producer shall be eligible for a total grant in any
11 [calendar] fiscal year equal to twenty cents per gallon for the
12 first twelve and one-half million gallons of qualified fuel
13 ethanol produced from Missouri agricultural products in the
14 [calendar] fiscal year plus five cents per gallon for the next
15 twelve and one-half million gallons of qualified fuel ethanol
16 produced from Missouri agricultural products in the [calendar]
17 fiscal year. All such qualified fuel ethanol produced by a
18 Missouri qualified fuel ethanol producer in excess of twenty-five
19 million gallons shall not be applied to the computation of a
20 grant pursuant to this subsection. The department of agriculture
21 shall pay all grants for a particular month by the fifteenth day
22 after receipt and approval of the application described in
23 subsection 4 of this section. If actual production of qualified
24 fuel ethanol during a particular month either exceeds or is less
25 than that estimated by a Missouri qualified fuel ethanol
26 producer, the department of agriculture shall adjust the
27 subsequent monthly grant by paying additional amount or
28 subtracting the amount in deficiency by using the calculation

1 described in this subsection.

2 4. In order for a Missouri qualified fuel ethanol producer
3 to obtain a grant from the fund for a particular month, an
4 application for such funds shall be received no later than
5 fifteen days prior to the first day of the month for which the
6 grant is sought. The application shall include:

7 (1) The location of the Missouri qualified fuel ethanol
8 producer;

9 (2) The average number of citizens of Missouri employed by
10 the Missouri qualified fuel ethanol producer in the preceding
11 quarter, if applicable;

12 (3) The number of bushels of Missouri agricultural
13 commodities used by the Missouri qualified fuel ethanol producer
14 in the production of fuel ethanol in the preceding quarter;

15 (4) The number of gallons of qualified fuel ethanol the
16 producer expects to manufacture during the month for which the
17 grant is applied;

18 (5) A copy of the qualified fuel ethanol producer license
19 required pursuant to subsection 5 of this section, name and
20 address of surety company, and amount of bond to be posted
21 pursuant to subsection 5 of this section; and

22 (6) Any other information deemed necessary by the
23 department of agriculture to adequately ensure that such grants
24 shall be made only to Missouri qualified fuel ethanol producers.

25 5. The director of the department of agriculture, in
26 consultation with the department of revenue, shall promulgate
27 rules and regulations necessary for the administration of the
28 provisions of this section. The director shall also establish

1 procedures for bonding Missouri qualified fuel ethanol producers.
2 Each Missouri qualified fuel ethanol producer who attempts to
3 obtain moneys pursuant to this section shall be bonded in an
4 amount not to exceed the estimated maximum monthly grant to be
5 issued to such Missouri qualified fuel ethanol producer.

6 6. [No rule or portion of a rule promulgated under the
7 authority of this section shall become effective unless it has
8 been promulgated pursuant to the provisions of section 536.024,
9 RSMo.] Any rule or portion of a rule, as that term is defined in
10 section 536.010, RSMo, that is created under the authority
11 delegated in this section shall become effective only if it
12 complies with and is subject to all of the provisions of chapter
13 536, RSMo, and, if applicable, section 536.028, RSMo. This
14 section and chapter 536, RSMo, are nonseverable and if any of the
15 powers vested with the general assembly pursuant to chapter 536,
16 RSMo, to review, to delay the effective date or to disapprove and
17 annul a rule are subsequently held unconstitutional, then the
18 grant of rulemaking authority and any rule proposed or adopted
19 after August 28, 2002, shall be invalid and void.

20 142.031. 1. As used in this section the following terms
21 shall mean:

22 (1) "Biodiesel", the mono alkyl esters of long-chain fatty
23 acids that are derived from animal fats or vegetable oils that
24 meet or exceed the specifications of ASTM D-6751 or any legal
25 successor thereto;

26 (2) "Qualified biodiesel producer", a facility that
27 produces biodiesel, is registered with the United States
28 Environmental Protection Agency according to the requirements of

1 40 CFR 79, and at least fifty-one percent is owned by
2 agricultural producers actively engaged in agricultural
3 production for commercial purposes. A qualified Missouri
4 biodiesel plant or producer must be accredited by the National
5 Biodiesel Accreditation Commission.

6 2. The "Missouri Qualified Biodiesel Producer Incentive
7 Fund" is hereby created and subject to appropriations with funds
8 from other revenue sources shall be used to provide economic
9 subsidies to Missouri qualified biodiesel producers pursuant to
10 this section. The director of the department of agriculture
11 shall administer the fund pursuant to this section.

12 3. A Missouri qualified biodiesel producer shall be
13 eligible for a quarterly grant from the fund, except that a
14 Missouri qualified biodiesel producer shall only be eligible for
15 the grant for a total of twenty quarters. The amount of the
16 grant is determined by calculating the estimated gallons of
17 qualified biodiesel production to be produced from Missouri
18 agricultural products for the succeeding quarter, as certified by
19 the department of agriculture, and applying such figure to the
20 per-gallon incentive credit established in this subsection. At
21 the beginning of each quarter, the previous quarter's grant shall
22 be reconciled against the actual gallons produced within ten days
23 of the end of the quarter. If the number of gallons of biodiesel
24 produced is greater than the number of gallons estimated for the
25 previous quarter, the qualified biodiesel producer shall receive
26 an amount equal to thirty cents per gallon for each gallon
27 produced in excess of the original estimate. If the number of
28 gallons of biodiesel produced is less than the number of gallons

1 estimated for the previous quarter, the qualified biodiesel
2 producer shall return an amount equal to thirty cents per gallon
3 for every gallon overestimated. The overestimated or
4 underestimated amount of gallons of biodiesel produced shall be
5 offset against the succeeding quarter's estimated amount. If an
6 application for a grant pursuant to this section is not received
7 for the succeeding quarter the overestimated or underestimated
8 amount shall be paid by the obligated party within thirty days of
9 the reconciliation. Each Missouri qualified biodiesel producer
10 shall be eligible for a total grant in any calendar year equal to
11 thirty cents per gallon for up to fifteen million gallons of
12 qualified biodiesel produced from Missouri agricultural products
13 in the calendar year. The department of agriculture shall pay
14 all grants for a particular quarter within fifteen days after
15 receipt and approval of the application described in subsection 4
16 of this section.

17 4. In order for a Missouri qualified biodiesel producer to
18 obtain a grant from the fund for a particular quarter, an
19 application for such funds shall be received no later than
20 fifteen days prior to the first day of the quarter for which the
21 grant is sought. The application shall include:

22 (1) The location of the Missouri qualified biodiesel
23 producer;

24 (2) The average number of citizens of Missouri employed by
25 the Missouri qualified biodiesel producer in the preceding
26 quarter, if applicable;

27 (3) The number of bushel equivalents of Missouri
28 agricultural commodities used by the Missouri qualified biodiesel

1 producer in the production of biodiesel in the preceding quarter;

2 (4) The number of gallons of qualified biodiesel the
3 producer expects to manufacture during the quarter for which the
4 grant is applied;

5 (5) A copy of the qualified biodiesel producer license
6 required pursuant to subsection 5 of this section, name and
7 address of surety company, and amount of bond to be posted
8 pursuant to subsection 5 of this section; and

9 (6) Any other information deemed necessary by the
10 department of agriculture to adequately ensure that such grants
11 shall be made only to Missouri qualified biodiesel producers.

12 5. The director of the department of agriculture, in
13 consultation with the department of revenue, shall promulgate
14 rules and regulations necessary for the administration of the
15 provisions of this section. The director shall also establish
16 procedures for bonding Missouri qualified biodiesel producers.
17 Each Missouri qualified biodiesel producer who attempts to obtain
18 moneys pursuant to this section shall be bonded in an amount not
19 to exceed the estimated maximum quarterly grant to be issued to
20 such Missouri qualified biodiesel producer.

21 6. Any rule or portion of a rule, as that term is defined
22 in section 536.010, RSMo, that is created under the authority
23 delegated in this section shall become effective only if it
24 complies with and is subject to all of the provisions of chapter
25 536, RSMo, and, if applicable, section 536.028, RSMo. This
26 section and chapter 536, RSMo, are nonseverable and if any of the
27 powers vested with the general assembly pursuant to chapter 536,
28 RSMo, to review, to delay the effective date or to disapprove and

1 annul a rule are subsequently held unconstitutional, then the
2 grant of rulemaking authority and any rule proposed or adopted
3 after August 28, 2002, shall be invalid and void.

4 254.020. As used in this chapter, the following words
5 [shall have the following meanings] mean:

6 (1) [The word "commission" shall mean] "Best management
7 practices", forest management practices, as defined by the
8 commission in consultation with the clean water commission, that
9 ensure protection of water quality;

10 (2) "Commission", the conservation commission of Missouri
11 [upon which, by the terms hereof impressed, are] being
12 responsible for the control, management, restoration,
13 conservation, and regulation of the bird, fish, game, forestry,
14 and all wildlife resources of the state are therefore vested the
15 responsibilities for the administration [hereof in conformity] of
16 this chapter in conformance with sections 40 to 46 of article IV
17 of the Constitution of Missouri; and the words "rules and
18 regulations" shall mean those made by the commission pursuant
19 thereto;

20 [(2)] (3) "Conservation commission fund" [as used in this
21 chapter, shall mean], only the moneys arising from the additional
22 sales and use taxes provided for in section 43(a) of article IV
23 of the Constitution of Missouri;

24 [(3)] (4) "Forest croplands" [shall mean], those lands
25 devoted exclusively to growing wood and timber, except for such
26 other uses as shall be approved by the commission by regulations
27 and which are tendered to the commission by any person and
28 accepted and classified by the commission as such; and the

1 commission shall prescribe the terms and conditions of such
2 tender, acceptance and classification;

3 [(4) The word "person" shall mean] (5) "Person", any
4 individual, male or female, singular or plural, of whatever age[,
5 and this term]. The term person shall include and refer to any
6 owner, grantee, lessee, licensee, permittee, firm, association,
7 copartnership, corporation, municipality or county, as the
8 context may require;

9 (6) "Precommercial forestry activities", proper forest
10 management activities, as defined by the commission, that do not
11 generate an immediate profit for the landowner;

12 [(5) The title "state forester" shall mean] (7) "State
13 forester", the administrative head of the state forestry program;

14 (8) "Sustainable forestry principles", forest management
15 activities, as defined by the commission, that ensure efficient
16 use and continued availability of forest resources.

17 254.040. 1. Any person desiring to have lands designated
18 as forest croplands shall submit an application [therefor] to the
19 state forester on [form or] forms [to be] provided by the
20 commission. The state forester [will] shall make or cause to be
21 made an examination of the lands covered by [said] such
22 application and shall forward a copy of [same] such application,
23 together with his or her recommendations, to the commission. If
24 the commission [approve and classify] approves and classifies
25 such lands as forest croplands, they shall be subject to the
26 provisions of this chapter and [such] rules and regulations
27 promulgated pursuant to this chapter.

28 2. If the commission [refuse so] refuses to accept and

1 classify [said] such lands, the applicant may appeal [from] the
2 decision of the commission to the circuit court in which such
3 lands, or major part [thereof] of such lands, are located and the
4 decision of the circuit court in all such matters shall be final.

5 3. No application to designate lands as forest croplands
6 shall be accepted for a tract of land containing less than twenty
7 acres; and no such land shall be classified for tax relief if the
8 value thereof shall exceed one hundred twenty-five dollars per
9 acre or a greater value as set by regulation of the commission.

10 4. No application for the cost-share incentive program
11 established in section 254.225 shall be accepted for lands
12 designated as forest croplands.

13 254.225. 1. The commission may administer a forest
14 landowner cost-share incentive program to promote sustainable
15 forestry on private lands. Such program may provide
16 reimbursement cost share for up to fifty percent of the cost of
17 precommercial forestry activities on eligible lands. Eligible
18 forestry activities shall be carried out in accordance with best
19 management practices and sustainable forestry principles.

20 2. Any forest landowner may submit a program application to
21 the state forester on forms provided by the commission.
22 Application procedures and acceptance criteria shall be specified
23 by the commission.

24 3. No application for such program shall be accepted for a
25 tract of land containing less than forty acres. The total amount
26 of incentives provided to any person shall not exceed five
27 thousand dollars in any calendar year.

28 261.110. 1. The department of agriculture shall develop

standards and labeling for organic farming.

2. The department of agriculture shall adopt rules to implement the provisions of this section.

3. [No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.] The department may cooperate with any agency of the federal government, any state, any other agency in this state, any private entity or person engaged in growing, processing, marketing of organic products, or any group of such persons in this state, in programs to effectuate such purposes. Such agreements may provide for cost and revenue sharing, and for division of duties and responsibilities under this section and may include other provisions generally to effectuate the purposes of this section.

4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

261.120. There is hereby created in the state treasury the "Organic Production and Certification Fee Fund". Fees imposed in

1 accordance with rules promulgated under section 261.110, shall be
2 credited to the organic production and certification fee fund.

3 261.230. The director of the department of agriculture
4 shall, for the use of the marketing division of the department of
5 agriculture, develop and implement rules and regulations by
6 product category for all Missouri agricultural products included
7 in the AgriMissouri marketing program [or any equivalent
8 successor program. Any rule or portion of a rule, as that term
9 is defined in section 536.010, RSMo, that is created under the
10 authority delegated in this section shall become effective only
11 if it complies with and is subject to all of the provisions of
12 chapter 536, RSMo, and, if applicable, section 536.028, RSMo.
13 This section and chapter 536, RSMo, are nonseverable and if any
14 of the powers vested with the general assembly pursuant to
15 chapter 536, RSMo, to review, to delay the effective date or to
16 disapprove and annul a rule are subsequently held
17 unconstitutional, then the grant of rulemaking authority and any
18 rule proposed or adopted after August 28, 2000, shall be invalid
19 and void].

20 261.235. 1. There is hereby created in the state treasury
21 for the use of the marketing division of the state department of
22 agriculture a fund to be known as "The Missouri Agricultural
23 Products Marketing Development Fund". [The general assembly
24 shall appropriate to the fund from the general revenue fund one
25 million three hundred thousand dollars for fiscal year 2002, one
26 million dollars for fiscal year 2003 and seven hundred fifty
27 thousand dollars for fiscal years 2004 to 2006.] All moneys
28 received by the state department of agriculture for Missouri

1 agricultural products marketing development from any source,
2 including trademark fees, shall be deposited in the fund. Moneys
3 deposited in the fund shall, upon appropriation by the general
4 assembly to the state department of agriculture, be expended by
5 the marketing division of the state department of agriculture for
6 [purposes] promotion of Missouri agricultural products [marketing
7 development as specified in this section] under the AgriMissouri
8 program. The unexpended balance in the Missouri agricultural
9 products marketing development fund at the end of the biennium
10 shall not be transferred to the [ordinary] general revenue fund
11 of the state treasury and accordingly shall be exempt from the
12 provisions of section 33.080, RSMo, relating to transfer of funds
13 to the ordinary revenue funds of the state by the state
14 treasurer.

15 2. There is hereby created within the department of
16 agriculture the "Citizens' Advisory Commission for Marketing
17 Missouri Agricultural Products". The commission shall establish
18 guidelines, and make recommendations to the director of
19 agriculture, for the use of funds appropriated by the general
20 assembly for [the spending by] the marketing division of the
21 department of agriculture [of all moneys in] , and for all funds
22 collected or appropriated to the Missouri agricultural products
23 marketing development fund created pursuant to subsection 1 of
24 this section. The guidelines shall focus on the promotion of the
25 AgriMissouri [or successor] trademark associated with Missouri
26 agricultural products [which has] that have been approved by the
27 general assembly, and shall advance the following objectives:

28 (1) Increasing the impact and fostering the effectiveness

1 of local efforts to promote Missouri agricultural products;

2 (2) Enabling and encouraging expanded advertising efforts
3 for Missouri agricultural products;

4 (3) Encouraging effective, high-quality advertising
5 projects, innovative marketing strategies, and the coordination
6 of local, regional and statewide marketing efforts;

7 (4) Providing training and technical assistance to
8 cooperative-marketing partners of Missouri agricultural products.

9 3. The commission [shall] may establish a fee structure for
10 sellers electing to use the AgriMissouri [or successor] trademark
11 associated with Missouri agricultural products. Under the fee
12 structure: (1) a seller having gross annual sales greater than
13 two million dollars per fiscal year of Missouri agricultural
14 products which constitute the final product of a series of
15 processes or activities shall remit to the marketing division of
16 the department of agriculture, at such times and in such manner
17 as may be prescribed, a trademark fee of one-half of one percent
18 of the aggregate amount of all of such seller's wholesale sales
19 of products carrying the AgriMissouri [or successor] trademark;
20 and (2) all sellers having gross annual sales less than or equal
21 to two million dollars per fiscal year of Missouri agricultural
22 products which constitute the final product of a series of
23 processes or activities shall, after three years of selling
24 Missouri agricultural products carrying the AgriMissouri [or
25 successor] trademark, remit to the marketing division of the
26 department of agriculture, at such times and in such manner as
27 may be prescribed, a trademark fee of one-half of one percent of
28 the aggregate amount of all of such seller's wholesale sales of

1 products carrying the AgriMissouri [or successor] trademark. All
2 trademark fees shall be deposited to the credit of the Missouri
3 agricultural products marketing development fund, created
4 pursuant to this section. [The commission may also create two
5 additional trademark labels to be associated with Missouri
6 agricultural products which are certified organic products and
7 certified family-farm-produced products.]

8 4. The marketing division of the department of agriculture
9 is authorized to [promote] promulgate rules consistent with the
10 guidelines and fee structure established by the commission. No
11 rule or portion of a rule shall become effective unless it has
12 been promulgated pursuant to the provisions of chapter 536, RSMo.

13 5. The commission shall consist of nine members appointed
14 by the governor with the advice and consent of the senate. One
15 member shall be the director of the market development division
16 of the department of agriculture, or his or her representative.
17 At least one member shall be a specialist in advertising; at
18 least one member shall be a specialist in agribusiness; at least
19 one member shall be a specialist in the retail grocery business;
20 at least one member shall be a specialist in communications; at
21 least one member shall be a specialist in product distribution;
22 at least one member shall be a family farmer with expertise in
23 livestock farming; at least one member shall be a family farmer
24 with expertise in grain farming and at least one member shall be
25 a family farmer with expertise in organic farming. Members shall
26 serve for four-year terms, except in the first appointments three
27 members shall be appointed for terms of four years, three members
28 shall be appointed for terms of three years and three members

1 shall be appointed for terms of two years each. Any member
2 appointed to fill a vacancy of an unexpired term shall be
3 appointed for the remainder of the term of the member causing the
4 vacancy. The governor shall appoint a chairperson of the
5 commission, subject to ratification by the commission.

6 6. Commission members shall receive no compensation but
7 shall be reimbursed for actual and necessary expenses incurred in
8 the performance of their official duties on the commission. The
9 division of market development of the department of agriculture
10 shall provide all necessary staff and support services as
11 required by the commission to hold commission meetings, to
12 maintain records of official acts and to conduct all other
13 business of the commission. The commission shall meet quarterly
14 and at any such time that it deems necessary. Meetings may be
15 called by the chairperson or by a petition signed by a majority
16 of the members of the commission. Ten days' notice shall be
17 given in writing to such members prior to the meeting date. A
18 simple majority of the members of the commission shall be present
19 to constitute a quorum. Proxy voting shall not be permitted.

20 261.239. The marketing division of the department of
21 agriculture shall create an Internet web site for the purpose of
22 fostering the marketing of Missouri agricultural products over
23 the Internet. [The web site shall allow consumers to place
24 orders for Missouri agricultural products over the Internet and
25 shall enable small companies which process Missouri agricultural
26 products to pool products with other such small companies.]

27 261.240. Any rule or portion of a rule, as that term is
28 defined in section 536.010, RSMo, that is created under the

authority delegated in sections 261.230 to 261.239 shall become effective only if they comply with and are subject to all of the provisions of chapter 536, RSMo, and if applicable, section 536.028, RSMo. These sections and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

263.531. 1. In the event any referendum conducted under sections 263.500 to 263.537 fails to receive the required number of affirmative votes, the certified organization may, with the consent of the department be authorized to call other referendums.

2. After the passage of any referendum, the eligible voters shall be allowed, by the subsequent referendums, at least every [five] ten years, to vote on whether to continue their assessments.

3. All the requirements for an initial referendum shall be met in subsequent referendums.

270.170. 1. If any swine or sheep shall be found running at large, contrary to the provisions of this chapter, it shall be lawful for any person on whose premises said swine or sheep shall be found to restrain the same forthwith, and give the owner, if known, notice in writing that [he] such person has restrained said swine or sheep, and the amount of damages [he] such person claims in the premises, and requiring the owner to take said

1 swine or sheep away and pay such damages; and such owner shall
2 pay such person a reasonable sum for taking up, feeding and
3 caring for the same, and the actual damages done by said swine or
4 sheep. If such owner fails to comply with the provisions of this
5 section within three days after receiving such notice, or if the
6 owner of such swine or sheep be unknown, such swine or sheep
7 shall be disposed of in the manner provided for in section
8 270.180.

9 2. Any swine not conspicuously identified by ear tags or
10 other forms of identification that were born in the wild or that
11 lived outside of captivity for a sufficient length of time to be
12 considered wild by nature by hiding from humans or being
13 nocturnal shall be considered feral hogs. Any person may take or
14 kill such feral hogs on such person's own property.

15 270.260. Any person who knowingly releases any swine to
16 live in a wild or feral state upon any public land or private
17 land not completely enclosed by a fence capable of containing
18 such animals is guilty of a class A misdemeanor. Each swine so
19 released shall be a separate offense.

20 270.400. 1. For purposes of this section, the term "feral
21 hog" means any hog, including Russian and European wild boar,
22 that is not conspicuously identified by ear tags or other forms
23 of identification and is roaming freely upon public or private
24 lands without the landowner's permission.

25 2. A person may kill a feral hog roaming freely upon such
26 person's land and shall not be liable to the owner of the hog for
27 the loss of the hog.

28 3. Any person may take or kill a feral hog on public land

1 or private land with the consent of the landowner; except that,
2 during the firearms deer and turkey hunting season the
3 regulations of the Missouri Wildlife Code shall apply. Such
4 person shall not be liable to the owner of the hog for the loss
5 of such hog.

6 4. No person except a landowner or such landowner's agent
7 on such landowner's property shall take or kill a feral hog with
8 the use of an artificial light.

9 275.464. In addition to any other licenses and charges
10 imposed by chapter 311, RSMo, there shall be collected by the
11 director of the department of agriculture and paid to the
12 director of the department of revenue for deposit in the Missouri
13 wine marketing and research development fund an additional pro
14 rata charge of [three] six dollars per ton of grapes or one
15 hundred sixty gallons of grape juice processed by commercial
16 producers in this state, with three dollars per ton or one
17 hundred sixty gallons being used for research and advertisement
18 of grapes and grape products. The charges shall be paid and
19 collected pursuant to sections 275.466 to 275.468.

20 311.554. 1. In addition to the charges imposed by section
21 311.550, there shall be paid to and collected by the director of
22 revenue for the privilege of selling wine, an additional charge
23 of six cents per gallon or fraction thereof. The additional
24 charge shall be paid and collected in the same manner and at the
25 same time that the charges imposed by section 311.550 are paid
26 and collected.

27 2. The revenue derived from the additional charge imposed
28 by subsection 1 shall be deposited by the state treasurer to the

1 credit of a separate account in the marketing development fund
2 created by section 261.035, RSMo. Moneys to the credit of the
3 account shall be appropriated annually for use by the division of
4 the state department of agriculture concerned with market
5 development in developing programs for growing, selling, and
6 marketing of grapes and grape products grown in Missouri,
7 including all necessary funding for the employment of experts in
8 the fields of viticulture and enology as deemed necessary, and
9 programs aimed at improving marketing of all varieties of grapes
10 grown in Missouri; and shall be appropriated and used for no
11 other purpose.

12 3. In addition to the charges imposed by subsection 1 of
13 this section and section 311.550, there shall be paid to and
14 collected by the director of revenue for the privilege of selling
15 wine an additional charge of six cents per gallon or fraction
16 thereof. This additional six cents per gallon shall be deposited
17 by the state treasurer to the credit of a separate account in the
18 marketing development fund created by section 261.035, RSMo.
19 Moneys to the credit account shall be appropriated annually for
20 the use by the division of the Missouri department of agriculture
21 concerned with the research and advisement of grapes and grape
22 products in Missouri, including all necessary funding for the
23 employment of experts in the fields of viticulture and enology.

24 348.430. 1. The tax credit created in this section shall
25 be known as the "Agricultural Product Utilization Contributor Tax
26 Credit".

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

28 (1) "Authority", the agriculture and small business

development authority as provided in this chapter;

(2) "Contributor", an individual, partnership, corporation, trust, limited liability company, entity or person that contributes cash funds to the authority;

(3) "Development facility", a facility producing either a good derived from an agricultural commodity or using a process to produce a good derived from an agricultural product;

(4) "Eligible new generation cooperative", a nonprofit cooperative association formed pursuant to chapter 274, RSMo, or incorporated pursuant to chapter 357, RSMo, for the purpose of operating a development facility or a renewable fuel production facility;

(5) "Eligible new generation processing entity", a partnership, corporation, cooperative, or limited liability company organized or incorporated pursuant to the laws of this state consisting of not less than twelve members, approved by the authority, for the purpose of owning or operating within this state a development facility or a renewable fuel production facility in which producer members:

(a) Hold a majority of the governance or voting rights of the entity and any governing committee;

(b) Control the hiring and firing of management; and

(c) Deliver agricultural commodities or products to the entity for processing, unless processing is required by multiple entities;

[(5)] (6) "Renewable fuel production facility", a facility producing an energy source which is derived from a renewable, domestically grown, organic compound capable of powering

1 machinery, including an engine or power plant, and any by-product
2 derived from such energy source.

3 3. For tax year 1999, a contributor who contributes funds
4 to the authority may receive a credit against the tax or
5 estimated quarterly tax otherwise due pursuant to chapter 143,
6 RSMo, other than taxes withheld pursuant to sections 143.191 to
7 143.265, RSMo, chapter 148, RSMo, chapter 147, RSMo, in an amount
8 of up to one hundred percent of such contribution. The awarding
9 of such credit shall be at the approval of the authority, based
10 on the least amount of credits necessary to provide incentive for
11 the contributions. A contributor that receives tax credits for a
12 contribution to the authority shall receive no other
13 consideration or compensation for such contribution, other than a
14 federal tax deduction, if applicable, and goodwill. A
15 contributor that receives tax credits for a contribution provided
16 in this section may not be a member, owner, investor or lender of
17 an eligible new generation cooperative or eligible new generation
18 processing entity that receives financial assistance from the
19 authority either at the time the contribution is made or for a
20 period of two years thereafter.

21 4. A contributor shall submit to the authority an
22 application for the tax credit authorized by this section on a
23 form provided by the authority. If the contributor meets all
24 criteria prescribed by this section and the authority, the
25 authority shall issue a tax credit certificate in the appropriate
26 amount. Tax credits issued pursuant to this section shall
27 initially be claimed [for] in the taxable year in which the
28 contributor contributes funds to the authority. Any amount of

1 credit that exceeds the tax due for a contributor's taxable year
2 may be carried forward to any of the contributor's five
3 subsequent taxable years. Tax credits issued pursuant to this
4 section may be assigned, transferred or sold. Whenever a
5 certificate of tax credit is assigned, transferred, sold or
6 otherwise conveyed, a notarized endorsement shall be filed with
7 the authority specifying the name and address of the new owner of
8 the tax credit or the value of the credit.

9 5. The funds derived from contributions in this section
10 shall be used for financial assistance or technical assistance
11 for the purposes provided in section 348.407, to rural
12 agricultural business concepts as approved by the authority. The
13 authority may provide or facilitate loans, equity investments, or
14 guaranteed loans for rural agricultural business concepts, but
15 limited to two million dollars per project or the net state
16 economic impact, whichever is less. Loans, equity investments or
17 guaranteed loans may only be provided to feasible projects, and
18 for an amount that is the least amount necessary to cause the
19 project to occur, as determined by the authority. The authority
20 may structure the loans, equity investments or guaranteed loans
21 in a way that facilitates the project, but also provides for a
22 compensatory return on investment or loan payment to the
23 authority, based on the risk of the project.

24 6. In any given year, at least ten percent of the funds
25 granted to rural agricultural business concepts shall be awarded
26 to grant requests of twenty-five thousand dollars or less. No
27 single rural agricultural business concept shall receive more
28 than two hundred thousand dollars in grant awards from the

1 authority. Agricultural businesses owned by minority members or
2 women shall be given consideration in the allocation of funds.

3 348.432. 1. The tax credit created in this section shall
4 be known as the "New Generation Cooperative Incentive Tax
5 Credit".

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

7 (1) "Authority", the agriculture and small business
8 development authority as provided in this chapter;

9 (2) "Development facility", a facility producing either a
10 good derived from an agricultural commodity or using a process to
11 produce a good derived from an agricultural product;

12 (3) "Eligible new generation cooperative", a nonprofit
13 cooperative association formed pursuant to chapter 274, RSMo, or
14 incorporated pursuant to chapter 357, RSMo, for the purpose of
15 operating a development facility or a renewable fuel production
16 facility and approved by the authority;

17 (4) "Eligible new generation processing entity", a
18 partnership, corporation, cooperative, or limited liability
19 company organized or incorporated pursuant to the laws of this
20 state consisting of not less than twelve members, approved by the
21 authority, for the purpose of owning or operating within this
22 state a development facility or a renewable fuel production
23 facility in which producer members:

24 (a) Hold a majority of the governance or voting rights of
25 the entity and any governing committee;

26 (b) Control the hiring and firing of management; and

27 (c) Deliver agricultural commodities or products to the
28 entity for processing, unless processing is required by multiple

1 entities;

2 [(4)] (5) "Employee-qualified capital project", an
3 eligible new generation cooperative with capital costs greater
4 than fifteen million dollars which will employ at least one
5 hundred employees;

6 [(5)] (6) "Large capital project", an eligible new
7 generation cooperative with capital costs greater than one
8 million dollars;

9 [(6) "Member", a person, partnership, corporation, trust or
10 limited liability company that invests cash funds to an eligible
11 new generation cooperative;]

12 (7) "Producer member", a person, partnership, corporation,
13 trust or limited liability company whose main purpose is
14 agricultural production that invests cash funds to an eligible
15 new generation cooperative or eligible new generation processing
16 entity;

17 [(7)] (8) "Renewable fuel production facility", a facility
18 producing an energy source which is derived from a renewable,
19 domestically grown, organic compound capable of powering
20 machinery, including an engine or power plant, and any by-product
21 derived from such energy source;

22 [(8)] (9) "Small capital project", an eligible new
23 generation cooperative with capital costs of no more than one
24 million dollars.

25 3. Beginning tax year 1999, and [subsequent tax years]
26 ending December 31, 2002, any producer member who invests cash
27 funds in an eligible new generation cooperative or eligible new
28 generation processing entity may receive a credit against the tax

1 or estimated quarterly tax otherwise due pursuant to chapter 143,
2 RSMo, other than taxes withheld pursuant to sections 143.191 to
3 143.265, RSMo, or chapter 148, RSMo, chapter 147, RSMo, in an
4 amount equal to the lesser of fifty percent of such producer
5 member's investment or fifteen thousand dollars.

6 4. For all tax years beginning on or after January 1, 2003,
7 any producer member who invests cash funds in an eligible new
8 generation cooperative may receive a credit against the tax or
9 estimated quarterly tax otherwise due pursuant to chapter 143,
10 RSMo, other than taxes withheld pursuant to sections 143.191 to
11 143.265, RSMo, chapter 147, RSMo, or chapter 148, RSMo, in an
12 amount equal to the lesser of fifty percent of such producer
13 member's investment or fifteen thousand dollars. Tax credits
14 claimed in a taxable year may be done so on a quarterly basis and
15 applied to the estimated quarterly tax pursuant to subsection 3
16 of this section.

17 5. No credit authorized pursuant to this section and
18 section 348.430 which is applied to an estimated quarterly tax
19 shall exceed the estimated quarterly tax liability.

20 [4.] 6. A producer member shall submit to the authority an
21 application for the tax credit authorized by this section on a
22 form provided by the authority. If the producer member meets all
23 criteria prescribed by this section and is approved by the
24 authority, the authority shall issue a tax credit certificate in
25 the appropriate amount. Tax credits issued pursuant to this
26 section shall initially be claimed [for] in the taxable year in
27 which the producer member contributes capital to an eligible new
28 generation cooperative or eligible new generation processing

1 entity. Any amount of credit that exceeds the tax due for a
2 producer member's taxable year may be carried back to any of the
3 producer member's three prior taxable years and carried forward
4 to any of the producer member's five subsequent taxable years.
5 Tax credits issued pursuant to this section may be assigned,
6 transferred, sold or otherwise conveyed and the new owner of the
7 tax credit shall have the same rights in the credit as the
8 producer member. Whenever a certificate of tax credit is
9 assigned, transferred, sold or otherwise conveyed, a notarized
10 endorsement shall be filed with the authority specifying the name
11 and address of the new owner of the tax credit or the value of
12 the credit.

13 [5.] 6. Ten percent of the tax credits authorized pursuant
14 to this section initially shall be offered in any fiscal year to
15 small capital projects. If any portion of the ten percent of tax
16 credits offered to small capital costs projects is unused in any
17 calendar year, then the unused portion of tax credits may be
18 offered to employee-qualified capital projects and large capital
19 projects. If the authority receives more applications for tax
20 credits for small capital projects than tax credits are
21 authorized therefor, then the authority, by rule, shall determine
22 the method of distribution of tax credits authorized for small
23 capital projects.

24 [6.] 7. Ninety percent of the tax credits authorized
25 pursuant to this section initially shall be offered in any fiscal
26 year to employee-qualified capital projects and large capital
27 projects. If any portion of the ninety percent of tax credits
28 offered to employee-qualified capital projects and large capital

costs projects is unused in any fiscal year, then the unused portion of tax credits may be offered to small capital projects. The maximum tax credit allowed per employee-qualified capital project is three million dollars and the maximum tax credit allowed per large capital project is one million five hundred thousand dollars. If the authority approves the maximum tax credit allowed for any employee-qualified capital project or any large capital project, then the authority, by rule, shall determine the method of distribution of such maximum tax credit. In addition, if the authority receives more tax credit applications for employee-qualified capital projects and large capital projects than the amount of tax credits authorized therefor, then the authority, by rule, shall determine the method of distribution of tax credits authorized for employee-qualified capital projects and large capital projects.

407.850. As used in sections 407.850 to 407.885, the following terms mean:

(1) "Current model", a model listed in the wholesaler's, manufacturer's or distributor's current sales manual or any supplements thereto;

(2) "Current net price", the price listed in the wholesaler's, manufacturer's or distributor's price list or catalogue in effect at the time the contract is canceled or discontinued, less any applicable trade and cash discounts;

(3) "Inventory", [farm] equipment, implements, machinery, attachments and repair parts;

(4) "Net cost", the price the retailer actually paid for the merchandise to the wholesaler, manufacturer or distributor,

1 plus freight from the wholesaler's, manufacturer's or
2 distributor's location to the dealer's location;

3 (5) "Retailer", any person, firm or corporation engaged in
4 the business of selling, repairing and retailing:

5 (a) Farm implements, machinery, attachments or repair
6 parts;

7 (b) Industrial, maintenance and construction power
8 equipment; or

9 (c) Outdoor power equipment used for lawn, garden, golf
10 course, landscaping or grounds maintenance;

11 but shall not include retailers of petroleum and motor vehicles
12 and related automotive care and replacement products normally
13 sold by such retailers.

14 407.860. 1. The wholesaler, manufacturer or distributor
15 shall repurchase that inventory previously purchased from him and
16 held by the retailer at the date of termination of the contract.
17 The provisions of sections 407.850 to 407.885 shall apply to the
18 transferee of such wholesaler, manufacturer or distributor if
19 such transferee acquired substantially all of the assets of such
20 wholesaler, manufacturer or distributor. The wholesaler,
21 manufacturer or distributor shall pay one hundred percent of the
22 net cost of all new, unsold, undamaged and complete [farm]
23 equipment, implements, machinery, and attachments and ninety-five
24 percent of the current net price of all new, unused and undamaged
25 repair parts. The retailer shall pay the cost of transportation
26 to the nearest warehouse maintained by the wholesaler,
27 manufacturer, or distributor, or to a mutually agreeable site.
28 The wholesaler, manufacturer or distributor shall pay the

1 retailer five percent of the current net price on all new, unused
2 and undamaged repair parts returned to cover the cost of
3 handling, packing and loading. The wholesaler, manufacturer or
4 distributor shall have the option of performing the handling,
5 packing and loading in lieu of paying the five percent for these
6 services. The retailer shall pay the cost of transportation to
7 the nearest warehouse maintained by the wholesaler, manufacturer,
8 or distributor, or to a mutually agreeable site.

9 2. Upon payment of the repurchase amount to the retailer,
10 the title and right of possession to the repurchased inventory
11 shall transfer to the wholesaler, manufacturer or distributor.

12 407.870. The provisions of sections 407.850 to 407.885
13 shall not require the repurchase from a retailer of:

14 (1) Any repair part which because of its condition is not
15 resalable as a new part without repackaging or reconditioning;

16 (2) Any inventory for which the retailer is unable to
17 furnish evidence, satisfactory to the wholesaler, manufacturer or
18 distributor, of title, free and clear of all claims, liens and
19 encumbrances;

20 (3) Any inventory which the retailer desires to keep,
21 provided the retailer has a contractual right to do so;

22 (4) Any equipment, implements, machinery, and attachments
23 which are not in new, unused, undamaged, or complete condition;

24 (5) Any repair parts which are not in new, unused, or
25 undamaged condition;

26 (6) Any equipment, implements, machinery or attachments
27 which were purchased twenty-four months or more prior to notice
28 of termination of the contract;

1 (7) Any inventory which was ordered by the retailer on or
2 after the date of notification of termination of the contract;

3 (8) Any inventory which was acquired by the retailer from
4 any source other than the wholesaler, manufacturer or distributor
5 or transferee of such wholesaler, manufacturer or distributor
6 unless such inventory was acquired from any source authorized or
7 arranged by the manufacturer.

8 414.032. 1. All kerosene, diesel fuel, heating oil,
9 aviation turbine fuel, gasoline, gasoline-alcohol blends and
10 other motor fuels shall meet the requirements in the annual book
11 of ASTM standards and supplements thereto. The director may
12 promulgate rules and regulations on the labeling, standards for,
13 and identity of motor fuels and heating oils.

14 2. [All sellers of motor fuel which has been blended with
15 an alcohol additive shall notify the buyer of same.

16 3. All sellers of motor fuel which has been blended with at
17 least one percent oxygenate by weight shall notify the buyer at
18 the pump of the type of oxygenate. The provisions of this
19 subsection may be satisfied with a sticker or label on the pump
20 stating that the motor fuel may or may not contain the oxygenate.
21 The department of agriculture shall provide the sticker or label,
22 which shall be reasonable in size and content, at no cost to the
23 sellers.

24 4.] The director may inspect gasoline, gasoline-alcohol
25 blends or other motor fuels to insure that these fuels conform to
26 advertised grade and octane. In no event shall the penalty for a
27 first violation of this section exceed a written reprimand.

28 414.043. After July 1, 2005, no gasoline sold, offered for

1 sale, or stored within this state shall contain more than one-
2 half of one percent by volume of methyl tertiary butyl ether
3 (MTBE).

4 701.383. Single person elevator lifts and belt manlifts
5 operating only in grain elevators or feed mills will be exempt
6 from sections 701.350 to 701.380 unless inspection is requested
7 by the owner.

8 Section 1. All premium tax credits described in sections
9 348.430 and 348.432, RSMo, shall only reduce the amount of money
10 received by the general revenue fund of this state and shall not
11 reduce any moneys received by the county foreign insurance tax
12 fund.

13 [407.750. Whenever any person, firm, or
14 corporation engaged in the business of selling and
15 repairing industrial, maintenance and construction
16 power equipment enters into a written or parol contract
17 whereby such retailer agrees to maintain a stock of
18 parts or machines or equipment or attachments with any
19 wholesaler, manufacturer, or distributor of industrial,
20 maintenance and construction power equipment used for
21 industrial, maintenance or construction applications
22 and either such wholesaler, manufacturer, or
23 distributor desires to cancel or discontinue the
24 contract, such wholesaler, manufacturer, or distributor
25 shall pay to such retailer, unless the retailer should
26 desire to keep such merchandise, a sum equal to ninety
27 percent of the net cost of all new, unused, undamaged
28 and complete industrial, maintenance and construction
29 power equipment used for industrial, maintenance and
30 construction applications including transportation
31 charges which have been paid by such retailer, and
32 ninety percent of the current net price on new, unused
33 and undamaged repair parts at the price listed in the
34 current price lists or catalogues, which parts had
35 previously been purchased from such wholesaler,
36 manufacturer, or distributor in the previous two years,
37 and held by such retailer on the date of the
38 cancellation of such contract. Any parts in a dealer's
39 inventory for more than two years shall be returned for
40 ninety percent of his original purchase cost. "Net
41 cost" means the price the retailer actually paid for

1 the equipment. "Current net price" means the price
2 listed in the manufacturer's, wholesaler's or
3 distributor's price list or catalogue in effect on the
4 date of termination, less any applicable trade or cash
5 discounts. Upon the payment of the sum equal to ninety
6 percent of the net cost of such equipment and ninety
7 percent of the current net price on the repair parts,
8 the title to such machinery and repair parts shall pass
9 to the manufacturer, wholesaler or distributor making
10 such payment, and such manufacturer, wholesaler, or
11 distributor shall be entitled to the possession of such
12 equipment and repair parts. All payments required to
13 be made under the provisions of this section must be
14 made within ninety days after the return of the
15 machinery or repair parts. After ninety days, all
16 payments or allowances shall include interest at the
17 rate stated in section 408.040, RSMo. The provisions
18 of this section shall not require the repurchase from a
19 retailer of:

20 (1) Any repair part which has a limited storage
21 life or is otherwise subject to deterioration, such as
22 rubber items, gaskets or batteries;

23 (2) Any repair part which is in a broken or
24 damaged package;

25 (3) Any single repair part which is priced as a
26 set of two or more items;

27 (4) Any repair part which because of its
28 condition is not resalable as a new part without
29 repackaging or reconditioning;

30 (5) Any inventory for which the retailer is
31 unable to furnish evidence, satisfactory to the
32 wholesaler, manufacturer or distributor, of title, free
33 and clear of all claims, liens and encumbrances;

34 (6) Any inventory which the retailer desires to
35 keep, provided the retailer has a contractual right to
36 do so;

37 (7) Any implements, machinery, and attachments
38 which are not in new, unused, undamaged, or complete
39 condition;

40 (8) Any repair parts which are not in new,
41 unused, or undamaged condition;

42 (9) Any implements, machinery or attachments
43 which were purchased twenty-four months or more prior
44 to notice of termination of the contract;

45 (10) Any inventory which was ordered by the
46 retailer on or after the date of notification of
47 termination of the contract;

48 (11) Any inventory which was acquired by the
49 retailer from any source other than the wholesaler,
50 manufacturer or distributor or transferee of such
51 wholesaler, manufacturer or distributor;

1 (12) Any part that has been removed from an
2 engine or short block or piece of equipment or any part
3 that has been mounted or installed on an engine or on
4 equipment.]

5
6 [407.751. The provisions of section 407.750 shall
7 be supplemental to any agreement between the retailer
8 and the manufacturer, wholesaler or distributor
9 covering the return of equipment and repair parts. The
10 retailer may elect to pursue either his contract remedy
11 or the remedy provided herein, and an election by the
12 retailer to pursue his contract remedy shall not bar
13 his right to the remedy provided herein as to those
14 equipment and repair parts not affected by the contract
15 remedy.]

16
17 [407.752. In the event that any manufacturer,
18 wholesaler, or distributor of machinery and repair
19 parts for industrial, maintenance and construction
20 power equipment used for industrial, maintenance and
21 construction applications, upon cancellation of a
22 contract by either a retailer or a manufacturer,
23 wholesaler, or distributor, fails or refuses to make
24 payment to such dealer as required by the provisions of
25 section 407.750, such manufacturer, wholesaler, or
26 distributor shall be liable in a civil action to the
27 retailer for costs of litigation and attorney's fees
28 and for one hundred percent of the net cost of such
29 machinery, plus transportation charges which have been
30 paid by the retailer and one hundred percent of the
31 current net price of the repair parts.]

32 [407.890. Whenever any person, firm, or
33 corporation engaged in the business of selling and
34 repairing outdoor power equipment used for lawn,
35 garden, golf course, landscaping or grounds
36 maintenance, enters into a written or parol contract
37 whereby such retailer agrees to maintain a stock of
38 parts or machines or equipment or attachments with any
39 wholesaler, manufacturer, or distributor of outdoor
40 power equipment used for lawn, garden, golf course,
41 landscaping or grounds maintenance, and either such
42 wholesaler, manufacturer, or distributor desires to
43 cancel or discontinue the contract, such wholesaler,
44 manufacturer, or distributor shall pay to such
45 retailer, unless the retailer should desire to keep
46 such merchandise, a sum equal to ninety percent of the
47 net cost of all new, unused, undamaged and complete
48 outdoor power equipment used for lawn, garden, golf
49 course, landscaping or grounds maintenance, including
50 transportation charges which have been paid by such

1 retailer, and ninety percent of the current net price
2 on new, unused and undamaged repair parts at the price
3 listed in the current price lists or catalogues, which
4 parts had previously been purchased from such
5 wholesaler, manufacturer, or distributor in the
6 previous two years, and held by such retailer on the
7 date of the cancellation of such contract. Any parts
8 in dealer's inventory for more than two years shall be
9 returned for ninety percent of his original purchase
10 cost. "Net cost" means the price the retailer actually
11 paid for the equipment. "Current net price" means the
12 price listed in the manufacturer's, wholesaler's or
13 distributor's price list or catalogue in effect on the
14 date of termination, less any applicable trade or cash
15 discounts. Upon the payment of the sum equal to ninety
16 percent of the net cost of such equipment and ninety
17 percent of the current net price on the repair parts,
18 the title to such machinery and repair parts shall pass
19 to the manufacturer, wholesaler or distributor making
20 such payment, and such manufacturer, wholesaler, or
21 distributor shall be entitled to the possession of such
22 equipment and repair parts. All payments required to
23 be made under the provisions of this section must be
24 made within ninety days after the return of the
25 machinery or repair parts. After ninety days, all
26 payments or allowances shall include interest at the
27 rate stated in section 408.040, RSMo. The provisions
28 of this section shall not require the repurchase from a
29 retailer of:

30 (1) Any repair part which has a limited storage
31 life or is otherwise subject to deterioration, such as
32 rubber items, gaskets or batteries;

33 (2) Any repair part which is in a broken or
34 damaged package;

35 (3) Any single repair part which is priced as a
36 set of two or more items;

37 (4) Any repair part which because of its
38 condition is not resalable as a new part without
39 repackaging or reconditioning;

40 (5) Any inventory for which the retailer is
41 unable to furnish evidence, satisfactory to the
42 wholesaler, manufacturer or distributor, of title, free
43 and clear of all claims, liens and encumbrances;

44 (6) Any inventory which the retailer desires to
45 keep, provided the retailer has a contractual right to
46 do so;

47 (7) Any implements, machinery, and attachments
48 which are not in new, unused, undamaged, or complete
49 condition;

50 (8) Any repair parts which are not in new,
51 unused, or undamaged condition;

1 (9) Any implements, machinery or attachments
2 which were purchased twenty-four months or more prior
3 to notice of termination of the contract;

4 (10) Any inventory which was ordered by the
5 retailer on or after the date of notification of
6 termination of the contract;

7 (11) Any inventory which was acquired by the
8 retailer from any source other than the wholesaler,
9 manufacturer or distributor or transferee of such
10 wholesaler, manufacturer or distributor;

11 (12) Any part that has been removed from an
12 engine or short block or piece of equipment or any part
13 that has been mounted or installed on an engine or on
14 equipment.]
15

16 [407.892. The provisions of section 407.890 shall
17 be supplemental to any agreement between the retailer
18 and the manufacturer, wholesaler or distributor
19 covering the return of equipment and repair parts. The
20 retailer may elect to pursue either his contract remedy
21 or the remedy provided herein, and an election by the
22 retailer to pursue his contract remedy shall not bar
23 his right to remedy provided herein as to those
24 equipment and repair parts not affected by the contract
25 remedy.]
26

27 [407.893. In the event that any manufacturer,
28 wholesaler, or distributor of machinery and repair
29 parts for outdoor power equipment used for lawn,
30 garden, golf course, landscaping or ground maintenance,
31 upon cancellation of a contract by either a retailer or
32 a manufacturer, wholesaler, or distributor, fails or
33 refuses to make payment to such dealer as required by
34 the provisions of section 407.890, such manufacturer,
35 wholesaler, or distributor shall be liable in a civil
36 action to the retailer for costs of litigation and
37 attorneys' fees and for one hundred percent of the net
38 cost of such machinery, plus transportation charges
39 which have been paid by the retailer and one hundred
40 percent of the current net price of the repair parts.]

41 Section B. If any provision of this act or the application
42 thereof to anyone or to any circumstances is held invalid, the
43 remainder of those sections and the application of such
44 provisions to others or other circumstances shall not be affected
45 thereby.