

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE NO. 2 FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1348
91ST GENERAL ASSEMBLY

2818L.14T

2002

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, 407.592, 407.750, 407.751, 407.752, 407.850, 407.860, 407.870, 407.890, 407.892, 407.893 and 414.032, RSMo, and to enact in lieu thereof twenty-seven new sections relating to agriculture, with penalty provisions and a severability clause.

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

Section A. 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, 407.592, 407.750, 407.751, 407.752, 407.850, 407.860, 407.870, 407.890, 407.892, 407.893 and 414.032, RSMo, are repealed and twenty-seven new sections enacted in lieu thereof, to be known as sections 142.028, 142.031, 254.020, 254.040, 254.225, 261.110, 261.120, 261.230, 261.235, 261.239, 261.240, 263.531, 270.170, 270.260, 270.400, 275.464, 311.554, 348.430, 348.432, 407.592, 407.850, 407.860, 407.870, 414.032, 414.043, 701.381 and 701.383, to read as follows:

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

(1) "Fuel ethanol", one hundred ninety-eight proof ethanol denatured in conformity with the United States Bureau of Alcohol, Tobacco and Firearms' regulations and fermented and distilled in a facility whose principal (over fifty percent) feed stock is cereal grain or cereal grain by-products;

(2) "Fuel ethanol blends", a mixture of ninety percent gasoline and ten percent fuel ethanol in which the gasoline portion of the blend or the finished blend meets the American

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

8 Society for Testing and Materials - specification number D-439;

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

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

18 3. A Missouri qualified fuel ethanol producer shall be eligible for a monthly grant from
19 the fund, except that a Missouri qualified fuel ethanol producer shall only be eligible for the
20 grant for a total of sixty months. The amount of the grant is determined by calculating the
21 estimated gallons of qualified fuel ethanol production to be produced from Missouri agricultural
22 products for the succeeding calendar month, as certified by the department of agriculture, and
23 applying such figure to the per-gallon incentive credit established in this subsection. Each
24 Missouri qualified fuel ethanol producer shall be eligible for a total grant in any [calendar] **fiscal**
25 year equal to twenty cents per gallon for the first twelve and one-half million gallons of qualified
26 fuel ethanol produced from Missouri agricultural products in the [calendar] **fiscal** year plus five
27 cents per gallon for the next twelve and one-half million gallons of qualified fuel ethanol
28 produced from Missouri agricultural products in the [calendar] **fiscal** year. All such qualified
29 fuel ethanol produced by a Missouri qualified fuel ethanol producer in excess of twenty-five
30 million gallons shall not be applied to the computation of a grant pursuant to this subsection.
31 The department of agriculture shall pay all grants for a particular month by the fifteenth day after
32 receipt and approval of the application described in subsection 4 of this section. If actual
33 production of qualified fuel ethanol during a particular month either exceeds or is less than that
34 estimated by a Missouri qualified fuel ethanol producer, the department of agriculture shall
35 adjust the subsequent monthly grant by paying additional amount or subtracting the amount in
36 deficiency by using the calculation described in this subsection.

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

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

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

43 (3) The number of bushels of Missouri agricultural commodities used by the Missouri

44 qualified fuel ethanol producer in the production of fuel ethanol in the preceding quarter;

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

47 (5) A copy of the qualified fuel ethanol producer license required pursuant to subsection
48 5 of this section, name and address of surety company, and amount of bond to be posted pursuant
49 to subsection 5 of this section; and

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

53 5. The director of the department of agriculture, in consultation with the department of
54 revenue, shall promulgate rules and regulations necessary for the administration of the provisions
55 of this section. The director shall also establish procedures for bonding Missouri qualified fuel
56 ethanol producers. Each Missouri qualified fuel ethanol producer who attempts to obtain moneys
57 pursuant to this section shall be bonded in an amount not to exceed the estimated maximum
58 monthly grant to be issued to such Missouri qualified fuel ethanol producer.

59 6. [No rule or portion of a rule promulgated under the authority of this section shall
60 become effective unless it has been promulgated pursuant to the provisions of section 536.024,
61 RSMo.] **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
62 that is created under the authority delegated in this section shall become effective only if
63 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
64 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
65 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,
66 to review, to delay the effective date or to disapprove and annul a rule are subsequently
67 held unconstitutional, then the grant of rulemaking authority and any rule proposed or
68 adopted after August 28, 2002, shall be invalid and void.**

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

2 (1) "Biodiesel", fuel as defined in ASTM Standard D-6751 or its subsequent
3 standard specifications for biodiesel fuel (B100) blend stock for distillate fuels;

4 (2) "Qualified biodiesel producer", a facility that produces biodiesel, is registered
5 with the United States Environmental Protection Agency according to the requirements
6 of 40 CFR 79, and at least fifty-one percent is owned by agricultural producers actively
7 engaged in agricultural production for commercial purposes.

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

12 to this section.

13 **3. A Missouri qualified biodiesel producer shall be eligible for a monthly grant**
14 **from the fund, except that a Missouri qualified biodiesel producer shall only be eligible for**
15 **the grant for a total of sixty months. The amount of the grant is determined by calculating**
16 **the estimated gallons of qualified biodiesel produced during the preceding month from**
17 **Missouri agricultural products, as certified by the department of agriculture, and applying**
18 **such figure to the per-gallon incentive credit established in this subsection. Each Missouri**
19 **qualified biodiesel producer shall be eligible for a total grant in any fiscal year equal to**
20 **thirty cents per gallon for the first fifteen million gallons of qualified biodiesel produced**
21 **from Missouri agricultural products in the fiscal year. All such qualified biodiesel**
22 **produced by a Missouri qualified biodiesel producer in excess of fifteen gallons shall not**
23 **be applied to the computation of a grant pursuant to this subsection. The department of**
24 **agriculture shall pay all grants for a particular month by the fifteenth day after receipt and**
25 **approval of the application described in subsection 4 of this section.**

26 **4. In order for a Missouri qualified biodiesel producer to obtain a grant from the**
27 **fund, an application for such funds shall be received no later than fifteen days following**
28 **the last day of the month for which the grant is sought. The application shall include:**

29 **(1) The location of the Missouri qualified biodiesel producer;**

30 **(2) The average number of citizens of Missouri employed by the Missouri qualified**
31 **biodiesel producer in the preceding month, if applicable;**

32 **(3) The number of bushel equivalents of Missouri agricultural commodities used**
33 **by the Missouri qualified biodiesel producer in the production of biodiesel in the preceding**
34 **month;**

35 **(4) The number of gallons of qualified biodiesel the producer manufactures during**
36 **the month for which the grant is applied;**

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

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

43 **5. The director of the department of agriculture, in consultation with the**
44 **department of revenue, shall promulgate rules and regulations necessary for the**
45 **administration of the provisions of this section.**

46 **6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**
47 **that is created under the authority delegated in this section shall become effective only if**

48 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
49 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
50 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,
51 to review, to delay the effective date or to disapprove and annul a rule are subsequently
52 held unconstitutional, then the grant of rulemaking authority and any rule proposed or
53 adopted after August 28, 2002, shall be invalid and void.

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

3 (1) [The word "commission" shall mean] **"Best management practices", forest**
4 **management practices, as defined by the commission in consultation with the clean water**
5 **commission, that ensure protection of water quality;**

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

13 [(2)] (3) **"Conservation commission fund"** [as used in this chapter, shall mean], only the
14 moneys arising from the additional sales and use taxes provided for in section 43(a) of article IV
15 of the Constitution of Missouri;

16 [(3)] (4) **"Forest croplands"** [shall mean], those lands devoted exclusively to growing
17 wood and timber, except for such other uses as shall be approved by the commission by
18 regulations and which are tendered to the commission by any person and accepted and classified
19 by the commission as such; and the commission shall prescribe the terms and conditions of such
20 tender, acceptance and classification;

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

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

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

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

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

2. If the commission [refuse so] **refuses** to accept and classify [said] **such** lands, the applicant may appeal [from] the decision of the commission to the circuit court in which such lands, or major part [thereof] **of such lands**, are located and the decision of the circuit court in all such matters shall be final.

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

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

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

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

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

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**

8 state, any other agency in this state, any private entity or person engaged in growing,
9 processing, marketing of organic products, or any group of such persons in this state, in
10 programs to effectuate such purposes. Such agreements may provide for cost and revenue
11 sharing, and for division of duties and responsibilities under this section and may include
12 other provisions generally to effectuate the purposes of this section.

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

261.120. There is hereby created in the state treasury the "Organic Production and
2 Certification Fee Fund". Fees imposed in accordance with rules promulgated under
3 section 261.110, shall be credited to the organic production and certification fee fund.

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

261.235. 1. There is hereby created in the state treasury for the use of the marketing
2 division of the state department of agriculture a fund to be known as "The Missouri Agricultural
3 Products Marketing Development Fund". [The general assembly shall appropriate to the fund
4 from the general revenue fund one million three hundred thousand dollars for fiscal year 2002,
5 one million dollars for fiscal year 2003 and seven hundred fifty thousand dollars for fiscal years
6 2004 to 2006.] All moneys received by the state department of agriculture for Missouri
7 agricultural products marketing development from any source, including trademark fees, shall
8 be deposited in the fund. Moneys deposited in the fund shall, upon appropriation by the general
9 assembly to the state department of agriculture, be expended by the marketing division of the

10 state department of agriculture for [purposes] **promotion** of Missouri agricultural products
11 [marketing development as specified in this section] **under the AgriMissouri program**. The
12 unexpended balance in the Missouri agricultural products marketing development fund at the end
13 of the biennium shall not be transferred to the [ordinary] **general** revenue fund of the state
14 treasury and accordingly shall be exempt from the provisions of section 33.080, RSMo, relating
15 to transfer of funds to the ordinary revenue funds of the state by the state treasurer.

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

25 (1) Increasing the impact and fostering the effectiveness of local efforts to promote
26 Missouri agricultural products;

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

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

31 (4) Providing training and technical assistance to cooperative-marketing partners **of**
32 **Missouri agricultural products**.

33 3. The commission [shall] **may** establish a fee structure for sellers electing to use the
34 AgriMissouri [or successor] trademark associated with Missouri agricultural products. Under
35 the fee structure: (1) a seller having gross annual sales greater than two million dollars per fiscal
36 year of Missouri agricultural products which constitute the final product of a series of processes
37 or activities shall remit to the marketing division of the department of agriculture, at such times
38 and in such manner as may be prescribed, a trademark fee of one-half of one percent of the
39 aggregate amount of all of such seller's wholesale sales of products carrying the AgriMissouri
40 [or successor] trademark; and (2) all sellers having gross annual sales less than or equal to two
41 million dollars per fiscal year of Missouri agricultural products which constitute the final product
42 of a series of processes or activities shall, after three years of selling Missouri agricultural
43 products carrying the AgriMissouri [or successor] trademark, remit to the marketing division
44 of the department of agriculture, at such times and in such manner as may be prescribed, a
45 trademark fee of one-half of one percent of the aggregate amount of all of such seller's wholesale

46 sales of products carrying the AgriMissouri [or successor] trademark. All trademark fees shall
47 be deposited to the credit of the Missouri agricultural products marketing development fund,
48 created pursuant to this section. [The commission may also create two additional trademark
49 labels to be associated with Missouri agricultural products which are certified organic products
50 and certified family-farm-produced products.]

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

55 5. The commission shall consist of nine members appointed by the governor with the
56 advice and consent of the senate. One member shall be the director of the market development
57 division of the department of agriculture, **or his or her representative**. At least one member
58 shall be a specialist in advertising; at least one member shall be a specialist in agribusiness; at
59 least one member shall be a specialist in the retail grocery business; at least one member shall
60 be a specialist in communications; at least one member shall be a specialist in product
61 distribution; at least one member shall be a family farmer with expertise in livestock farming;
62 at least one member shall be a family farmer with expertise in grain farming and at least one
63 member shall be a family farmer with expertise in organic farming. Members shall serve for
64 four-year terms, except in the first appointments three members shall be appointed for terms of
65 four years, three members shall be appointed for terms of three years and three members shall
66 be appointed for terms of two years each. Any member appointed to fill a vacancy of an
67 unexpired term shall be appointed for the remainder of the term of the member causing the
68 vacancy. The governor shall appoint a chairperson of the commission, subject to ratification by
69 the commission.

70 6. Commission members shall receive no compensation but shall be reimbursed for
71 actual and necessary expenses incurred in the performance of their official duties on the
72 commission. The division of market development of the department of agriculture shall provide
73 all necessary staff and support services as required by the commission to hold commission
74 meetings, to maintain records of official acts and to conduct all other business of the
75 commission. The commission shall meet quarterly and at any such time that it deems necessary.
76 Meetings may be called by the chairperson or by a petition signed by a majority of the members
77 of the commission. Ten days' notice shall be given in writing to such members prior to the
78 meeting date. A simple majority of the members of the commission shall be present to constitute
79 a quorum. Proxy voting shall not be permitted.

261.239. The marketing division of the department of agriculture shall create an Internet
2 web site for the purpose of fostering the marketing of Missouri agricultural products over the

3 Internet. [The web site shall allow consumers to place orders for Missouri agricultural products
4 over the Internet and shall enable small companies which process Missouri agricultural products
5 to pool products with other such small companies.]

2 **261.240. Any rule or portion of a rule, as that term is defined in section 536.010,**
3 **RSMo, that is created under the authority delegated in sections 261.230 to 261.239 shall**
4 **become effective only if they comply with and are subject to all of the provisions of chapter**
5 **536, RSMo, and if applicable, section 536.028, RSMo. These sections and chapter 536,**
6 **RSMo, are nonseverable and if any of the powers vested with the general assembly**
7 **pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and**
8 **annul a rule are subsequently held unconstitutional, then the grant of rulemaking**
9 **authority and any rule proposed or adopted after August 28, 2001, shall be invalid and**
10 **void.**

2 263.531. 1. In the event any referendum conducted under sections 263.500 to 263.537
3 fails to receive the required number of affirmative votes, the certified organization may, with the
4 consent of the department be authorized to call other referendums.

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

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

2 270.170. **1.** If any swine or sheep shall be found running at large, contrary to the
3 provisions of this chapter, it shall be lawful for any person on whose premises said swine or
4 sheep shall be found to restrain the same forthwith, and give the owner, if known, notice in
5 writing that [he] **such person** has restrained said swine or sheep, and the amount of damages [he]
6 **such person** claims in the premises, and requiring the owner to take said swine or sheep away
7 and pay such damages; and such owner shall pay such person a reasonable sum for taking up,
8 feeding and caring for the same, and the actual damages done by said swine or sheep. If such
9 owner fails to comply with the provisions of this section within three days after receiving such
10 notice, or if the owner of such swine or sheep be unknown, such swine or sheep shall be disposed
11 of in the manner provided for in section 270.180.

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

2 **270.260. Any person who knowingly releases any swine to live in a wild or feral**
3 **state upon any public land or private land not completely enclosed by a fence capable of**

3 containing such animals is guilty of a class A misdemeanor. Each swine so released shall
4 be a separate offense.

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

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

7 3. Any person may take or kill a feral hog on public land or private land with the
8 consent of the landowner; except that, during the firearms deer and turkey hunting season
9 the regulations of the Missouri Wildlife Code shall apply. Such person shall not be liable
10 to the owner of the hog for the loss of such hog.

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

275.464. In addition to any other licenses and charges imposed by chapter 311, RSMo,
2 there shall be collected by the director of the department of agriculture and paid to the director
3 of the department of revenue for deposit in the Missouri wine marketing and research
4 development fund an additional pro rata charge of [three] **six** dollars per ton of grapes or one
5 hundred sixty gallons of grape juice processed by commercial producers in this state, **with three**
6 **dollars per ton or one hundred sixty gallons being used for research and advisement of**
7 **grapes and grape products.** The charges shall be paid and collected pursuant to sections
8 275.466 to 275.468.

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

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

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

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

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

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

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

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

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

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

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

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

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

24 [(5)] **(6) "Renewable fuel production facility", a facility producing an energy source**
25 **which is derived from a renewable, domestically grown, organic compound capable of powering**
26 **machinery, including an engine or power plant, and any by-product derived from such energy**
27 **source.**

28 3. For tax year 1999, a contributor who contributes funds to the authority may receive
29 a credit against the tax otherwise due pursuant to chapter 143, RSMo, other than taxes withheld
30 pursuant to sections 143.191 to 143.265, RSMo, chapter 148, RSMo, chapter 147, RSMo, in an
31 amount of up to one hundred percent of such contribution. The awarding of such credit shall be
32 at the approval of the authority, based on the least amount of credits necessary to provide
33 incentive for the contributions. A contributor that receives tax credits for a contribution to the
34 authority shall receive no other consideration or compensation for such contribution, other than
35 a federal tax deduction, if applicable, and goodwill. A contributor that receives tax credits for
36 a contribution provided in this section may not be a member, owner, investor or lender of an
37 eligible new generation cooperative **or eligible new generation processing entity** that receives
38 financial assistance from the authority either at the time the contribution is made or for a period
39 of two years thereafter.

40 4. A contributor shall submit to the authority an application for the tax credit authorized
41 by this section on a form provided by the authority. If the contributor meets all criteria
42 prescribed by this section and the authority, the authority shall issue a tax credit certificate in the
43 appropriate amount. Tax credits issued pursuant to this section shall initially be claimed [for]
44 **in** the taxable year in which the contributor contributes funds to the authority. Any amount of
45 credit that exceeds the tax due for a contributor's taxable year may be carried forward to any of
46 the contributor's five subsequent taxable years. Tax credits issued pursuant to this section may
47 be assigned, transferred or sold. Whenever a certificate of tax credit is assigned, transferred, sold
48 or otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the
49 name and address of the new owner of the tax credit or the value of the credit.

50 5. The funds derived from contributions in this section shall be used for financial
51 assistance or technical assistance for the purposes provided in section 348.407, to rural
52 agricultural business concepts as approved by the authority. The authority may provide or
53 facilitate loans, equity investments, or guaranteed loans for rural agricultural business concepts,
54 but limited to two million dollars per project or the net state economic impact, whichever is less.
55 Loans, equity investments or guaranteed loans may only be provided to feasible projects, and for
56 an amount that is the least amount necessary to cause the project to occur, as determined by the
57 authority. The authority may structure the loans, equity investments or guaranteed loans in a way
58 that facilitates the project, but also provides for a compensatory return on investment or loan
59 payment to the authority, based on the risk of the project.

60 6. In any given year, at least ten percent of the funds granted to rural agricultural business
61 concepts shall be awarded to grant requests of twenty-five thousand dollars or less. No single
62 rural agricultural business concept shall receive more than two hundred thousand dollars in grant
63 awards from the authority. Agricultural businesses owned by minority members or women shall

64 be given consideration in the allocation of funds.

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

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

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

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

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

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

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

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

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

23 [(4)] (5) "Employee-qualified capital project", an eligible new generation cooperative
24 with capital costs greater than fifteen million dollars which will employ at least one hundred
25 employees;

26 [(5)] (6) "Large capital project", an eligible new generation cooperative with capital
27 costs greater than one million dollars;

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

30 (7) **"Producer member", a person, partnership, corporation, trust or limited**
31 **liability company whose main purpose is agricultural production that invests cash funds**
32 **to an eligible new generation cooperative or eligible new generation processing entity;**

33 [(7)] (8) "Renewable fuel production facility", a facility producing an energy source
34 which is derived from a renewable, domestically grown, organic compound capable of powering
35 machinery, including an engine or power plant, and any by-product derived from such energy

36 source;

37 [(8)] (9) "Small capital project", an eligible new generation cooperative with capital
38 costs of no more than one million dollars.

39 3. Beginning tax year 1999, and [subsequent tax years] **ending December 31, 2002**, any
40 **producer** member who invests cash funds in an eligible new generation cooperative **or eligible**
41 **new generation processing entity** may receive a credit against the tax otherwise due pursuant
42 to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265,
43 RSMo, or chapter 148, RSMo, chapter 147, RSMo, in an amount equal to the lesser of fifty
44 percent of such **producer** member's investment or fifteen thousand dollars.

45 **4. For all tax years beginning on or after January 1, 2003, any producer member**
46 **who invests cash funds in an eligible new generation cooperative may receive a credit**
47 **against the tax otherwise due pursuant to chapter 143, RSMo, other than taxes withheld**
48 **pursuant to sections 143.191 to 143.265, RSMo, chapter 147, RSMo, or chapter 148, RSMo,**
49 **in an amount equal to the lesser of fifty percent of such producer member's investment or**
50 **fifteen thousand dollars.**

51 [4.] **5. A producer** member shall submit to the authority an application for the tax credit
52 authorized by this section on a form provided by the authority. If the **producer** member meets
53 all criteria prescribed by this section and is approved by the authority, the authority shall issue
54 a tax credit certificate in the appropriate amount. Tax credits issued pursuant to this section shall
55 initially be claimed [for] **in** the taxable year in which the **producer** member contributes capital
56 to an eligible new generation cooperative **or eligible new generation processing entity**. Any
57 amount of credit that exceeds the tax due for a **producer** member's taxable year may be carried
58 back to any of the **producer** member's three prior taxable years and carried forward to any of the
59 **producer** member's five subsequent taxable years. Tax credits issued pursuant to this section
60 may be assigned, transferred, sold or otherwise conveyed and the new owner of the tax credit
61 shall have the same rights in the credit as the **producer** member. Whenever a certificate of tax
62 credit is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed
63 with the authority specifying the name and address of the new owner of the tax credit or the
64 value of the credit.

65 [5.] **6. Ten percent of the tax credits authorized pursuant to this section initially shall**
66 **be offered in any fiscal year to small capital projects. If any portion of the ten percent of tax**
67 **credits offered to small capital costs projects is unused in any calendar year, then the unused**
68 **portion of tax credits may be offered to employee-qualified capital projects and large capital**
69 **projects. If the authority receives more applications for tax credits for small capital projects than**
70 **tax credits are authorized therefor, then the authority, by rule, shall determine the method of**
71 **distribution of tax credits authorized for small capital projects.**

72 [6.] 7. Ninety percent of the tax credits authorized pursuant to this section initially shall
73 be offered in any fiscal year to employee-qualified capital projects and large capital projects. If
74 any portion of the ninety percent of tax credits offered to employee-qualified capital projects and
75 large capital costs projects is unused in any fiscal year, then the unused portion of tax credits may
76 be offered to small capital projects. The maximum tax credit allowed per employee-qualified
77 capital project is three million dollars and the maximum tax credit allowed per large capital
78 project is one million five hundred thousand dollars. If the authority approves the maximum tax
79 credit allowed for any employee-qualified capital project or any large capital project, then the
80 authority, by rule, shall determine the method of distribution of such maximum tax credit. In
81 addition, if the authority receives more tax credit applications for employee-qualified capital
82 projects and large capital projects than the amount of tax credits authorized therefor, then the
83 authority, by rule, shall determine the method of distribution of tax credits authorized for
84 employee-qualified capital projects and large capital projects.

407.592. Sections 407.585 to 407.592 shall apply to any new farm machinery sold after
2 January 1, 1988, but no provision of sections 407.585 to 407.592 shall operate or be construed
3 to invalidate, impair, or otherwise infringe upon the specific requirements of any contract
4 between a dealer and a manufacturer entered into prior to September 28, 1987, and which is in
5 effect on September 28, 1987; provided, however, that in any case wherein warranty repair work
6 is performed for a consumer by a farm equipment dealer under the provisions of a manufacturer's
7 express warranty, the manufacturer shall reimburse the dealer at an hourly labor rate that is the
8 same or greater than the hourly labor rate the dealer currently charges consumers for nonwarranty
9 repair work. **The dealer may accept the manufacturer's reimbursement terms and**
10 **conditions in lieu of the above.**

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

- 2 (1) "Current model", a model listed in the wholesaler's, manufacturer's or distributor's
3 current sales manual or any supplements thereto;
- 4 (2) "Current net price", the price listed in the wholesaler's, manufacturer's or distributor's
5 price list or catalogue in effect at the time the contract is canceled or discontinued, less any
6 applicable trade and cash discounts;
- 7 (3) "Inventory", [farm] **equipment**, implements, machinery, attachments and repair
8 parts;
- 9 (4) "Net cost", the price the retailer actually paid for the merchandise to the wholesaler,
10 manufacturer or distributor, plus freight from the wholesaler's, manufacturer's or distributor's
11 location to the dealer's location;
- 12 (5) "Retailer", any person, firm or corporation engaged in the business of selling,
13 repairing and retailing;

- 14 (a) Farm implements, machinery, attachments or repair parts;
15 (b) Industrial, maintenance and construction power equipment; or
16 (c) Outdoor power equipment used for lawn, garden, golf course, landscaping or grounds
17 maintenance;
18 but shall not include retailers of petroleum and motor vehicles and related automotive care and
19 replacement products normally sold by such retailers.

407.860. 1. The wholesaler, manufacturer or distributor shall repurchase that inventory
2 previously purchased from him and held by the retailer at the date of termination of the contract.
3 The provisions of sections 407.850 to 407.885 shall apply to the transferee of such wholesaler,
4 manufacturer or distributor if such transferee acquired substantially all of the assets of such
5 wholesaler, manufacturer or distributor. The wholesaler, manufacturer or distributor shall pay
6 one hundred percent of the net cost of all new, unsold, undamaged and complete [farm]
7 **equipment**, implements, machinery, and attachments and ninety-five percent of the current net
8 price of all new, unused and undamaged repair parts. The retailer shall pay the cost of
9 transportation to the nearest warehouse maintained by the wholesaler, manufacturer, or
10 distributor, or to a mutually agreeable site. The wholesaler, manufacturer or distributor shall pay
11 the retailer five percent of the current net price on all new, unused and undamaged repair parts
12 returned to cover the cost of handling, packing and loading. The wholesaler, manufacturer or
13 distributor shall have the option of performing the handling, packing and loading in lieu of
14 paying the five percent for these services. The retailer shall pay the cost of transportation to the
15 nearest warehouse maintained by the wholesaler, manufacturer, or distributor, or to a mutually
16 agreeable site.

17 2. Upon payment of the repurchase amount to the retailer, the title and right of
18 possession to the repurchased inventory shall transfer to the wholesaler, manufacturer or
19 distributor.

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

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

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

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

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

- 12 (5) Any repair parts which are not in new, unused, or undamaged condition;
- 13 (6) Any **equipment**, implements, machinery or attachments which were purchased
- 14 twenty-four months or more prior to notice of termination of the contract;
- 15 (7) Any inventory which was ordered by the retailer on or after the date of notification
- 16 of termination of the contract;
- 17 (8) Any inventory which was acquired by the retailer from any source other than the
- 18 wholesaler, manufacturer or distributor or transferee of such wholesaler, manufacturer or
- 19 distributor **unless such inventory was acquired from any source authorized or arranged by**
- 20 **the manufacturer.**

- 414.032. 1. All kerosene, diesel fuel, heating oil, aviation turbine fuel, gasoline,
- 2 gasoline-alcohol blends and other motor fuels shall meet the requirements in the annual book of
- 3 ASTM standards and supplements thereto. The director may promulgate rules and regulations
- 4 on the labeling, standards for, and identity of motor fuels and heating oils.
- 5 2. [All sellers of motor fuel which has been blended with an alcohol additive shall notify
- 6 the buyer of same.
- 7 3. All sellers of motor fuel which has been blended with at least one percent oxygenate
- 8 by weight shall notify the buyer at the pump of the type of oxygenate. The provisions of this
- 9 subsection may be satisfied with a sticker or label on the pump stating that the motor fuel may
- 10 or may not contain the oxygenate. The department of agriculture shall provide the sticker or
- 11 label, which shall be reasonable in size and content, at no cost to the sellers.
- 12 4.] The director may inspect gasoline, gasoline-alcohol blends or other motor fuels to
- 13 insure that these fuels conform to advertised grade and octane. In no event shall the penalty for
- 14 a first violation of this section exceed a written reprimand.

414.043. After July 1, 2005, no gasoline sold, offered for sale, or stored within this

2 **state shall contain more than one-half of one percent by volume of methyl tertiary butyl**

3 **ether (MTBE).**

701.381. The provisions of sections 701.350 to 701.380, RSMo, shall not apply to

2 **any device that is inaccessible to the public, not used to transport passengers and was built**

3 **before January 1, 1940.**

701.383. Single person elevator lifts and belt manlifts operating only in grain

2 **elevators or feed mills will be exempt from sections 701.350 to 701.380 unless inspection is**

3 **requested by the owner.**

[407.750. Whenever any person, firm, or corporation engaged in the business

2 of selling and repairing industrial, maintenance and construction power equipment

3 enters into a written or parol contract whereby such retailer agrees to maintain a stock

4 of parts or machines or equipment or attachments with any wholesaler, manufacturer,

5 or distributor of industrial, maintenance and construction power equipment used for

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

- 31 (1) Any repair part which has a limited storage life or is otherwise subject to
32 deterioration, such as rubber items, gaskets or batteries;
- 33 (2) Any repair part which is in a broken or damaged package;
- 34 (3) Any single repair part which is priced as a set of two or more items;
- 35 (4) Any repair part which because of its condition is not resalable as a new
36 part without repackaging or reconditioning;
- 37 (5) Any inventory for which the retailer is unable to furnish evidence,
38 satisfactory to the wholesaler, manufacturer or distributor, of title, free and clear of
39 all claims, liens and encumbrances;
- 40 (6) Any inventory which the retailer desires to keep, provided the retailer has
41 a contractual right to do so;
- 42 (7) Any implements, machinery, and attachments which are not in new,
43 unused, undamaged, or complete condition;
- 44 (8) Any repair parts which are not in new, unused, or undamaged condition;
- 45 (9) Any implements, machinery or attachments which were purchased
46 twenty-four months or more prior to notice of termination of the contract;
- 47 (10) Any inventory which was ordered by the retailer on or after the date of
48 notification of termination of the contract;

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

52 (12) Any part that has been removed from an engine or short block or piece
53 of equipment or any part that has been mounted or installed on an engine or on
54 equipment.]

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

[407.752. In the event that any manufacturer, wholesaler, or distributor of
2 machinery and repair parts for industrial, maintenance and construction power
3 equipment used for industrial, maintenance and construction applications, upon
4 cancellation of a contract by either a retailer or a manufacturer, wholesaler, or
5 distributor, fails or refuses to make payment to such dealer as required by the
6 provisions of section 407.750, such manufacturer, wholesaler, or distributor shall be
7 liable in a civil action to the retailer for costs of litigation and attorney's fees and for
8 one hundred percent of the net cost of such machinery, plus transportation charges
9 which have been paid by the retailer and one hundred percent of the current net price
10 of the repair parts.]

[407.890. Whenever any person, firm, or corporation engaged in the business
2 of selling and repairing outdoor power equipment used for lawn, garden, golf course,
3 landscaping or grounds maintenance, enters into a written or parol contract whereby
4 such retailer agrees to maintain a stock of parts or machines or equipment or
5 attachments with any wholesaler, manufacturer, or distributor of outdoor power
6 equipment used for lawn, garden, golf course, landscaping or grounds maintenance,
7 and either such wholesaler, manufacturer, or distributor desires to cancel or
8 discontinue the contract, such wholesaler, manufacturer, or distributor shall pay to
9 such retailer, unless the retailer should desire to keep such merchandise, a sum equal
10 to ninety percent of the net cost of all new, unused, undamaged and complete outdoor
11 power equipment used for lawn, garden, golf course, landscaping or grounds
12 maintenance, including transportation charges which have been paid by such retailer,
13 and ninety percent of the current net price on new, unused and undamaged repair
14 parts at the price listed in the current price lists or catalogues, which parts had
15 previously been purchased from such wholesaler, manufacturer, or distributor in the
16 previous two years, and held by such retailer on the date of the cancellation of such
17 contract. Any parts in dealer's inventory for more than two years shall be returned
18 for ninety percent of his original purchase cost. "Net cost" means the price the
19 retailer actually paid for the equipment. "Current net price" means the price listed
20 in the manufacturer's, wholesaler's or distributor's price list or catalogue in effect on
21 the date of termination, less any applicable trade or cash discounts. Upon the

payment of the sum equal to ninety percent of the net cost of such equipment and ninety percent of the current net price on the repair parts, the title to such machinery and repair parts shall pass to the manufacturer, wholesaler or distributor making such payment, and such manufacturer, wholesaler, or distributor shall be entitled to the possession of such equipment and repair parts. All payments required to be made under the provisions of this section must be made within ninety days after the return of the machinery or repair parts. After ninety days, all payments or allowances shall include interest at the rate stated in section 408.040, RSMo. The provisions of this section shall not require the repurchase from a retailer of:

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

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

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

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

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

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

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

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

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

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

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

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

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

[407.893. In the event that any manufacturer, wholesaler, or distributor of machinery and repair parts for outdoor power equipment used for lawn, garden, golf course, landscaping or ground maintenance, upon cancellation of a contract by either a retailer or a manufacturer, wholesaler, or distributor, fails or refuses to make

5 payment to such dealer as required by the provisions of section 407.890, such
6 manufacturer, wholesaler, or distributor shall be liable in a civil action to the retailer
7 for costs of litigation and attorneys' fees and for one hundred percent of the net cost
8 of such machinery, plus transportation charges which have been paid by the retailer
9 and one hundred percent of the current net price of the repair parts.]

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