

FIRST REGULAR SESSION

HOUSE BILL NO. 1164

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SCHARNHORST (Sponsor), CUNNINGHAM (86), ROBB,
POLLOCK, FAITH, MUSCHANY AND COOPER (158) (Co-sponsors).

Read 1st time March 26, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

2661L.01I

AN ACT

To repeal section 386.756, RSMo, and to enact in lieu thereof one new section relating to HVAC services.

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

Section A. Section 386.756, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 386.756, to read as follows:

386.756. 1. Except by an affiliate, a utility may not engage in HVAC services, unless otherwise provided in subsection [7 or] 8 or 9 of this section.

2. No affiliate or utility contractor may use any vehicles, service tools, instruments, employees, or any other utility assets, the cost of which are recoverable in the regulated rates for utility service, to engage in HVAC services unless the utility is compensated for the use of such assets at cost to the utility.

3. **No utility or affiliate shall engage in the sale and installation of home generators for electrical production unless there are no existing providers of HVAC services in the service area.**

4. A utility may not use or allow any affiliate or utility contractor to use the name of such utility to engage in HVAC services unless the utility, affiliate or utility contractor discloses, in plain view and in bold type on the same page as the name is used on all advertisements or in plain audible language during all solicitations of such services, a disclaimer that states the services provided are not regulated by the public service commission.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 [4.] 5. A utility may not engage in or assist any affiliate or utility contractor in engaging
16 in HVAC services in a manner which subsidizes the activities of such utility, affiliate or utility
17 contractor to the extent of changing the rates or charges for the utility's regulated services above
18 or below the rates or charges that would be in effect if the utility were not engaged in or assisting
19 any affiliate or utility contractor in engaging in such activities.

20 [5.] 6. Any affiliates or utility contractors engaged in HVAC services shall maintain
21 accounts, books and records separate and distinct from the utility.

22 [6.] 7. The provisions of this section shall apply to any affiliate or utility contractor
23 engaged in HVAC services that is owned, controlled or under common control with a utility
24 providing regulated utility service in this state or any other state.

25 [7.] 8. A utility engaging in HVAC services in this state five years prior to August 28,
26 1998, may continue providing, to existing as well as new customers, the same type of services
27 as those provided by the utility five years prior to August 28, 1998. The provisions of this
28 section only apply to the area of service which the utility was actually supplying service to on
29 a regular basis prior to August 28, 1993. The provisions of this section shall not apply to any
30 subsequently expanded areas of service made by a utility through either existing affiliates or
31 subsidiaries or through affiliates or subsidiaries purchased after August 28, 1993, unless such
32 services were being provided in the expanded area prior to August 28, 1993.

33 [8.] 9. The provisions of this section shall not be construed to prohibit a utility from
34 providing emergency service, providing any service required by law or providing a program
35 pursuant to an existing tariff, rule or order of the public service commission.

36 [9.] 10. A utility that violates any provision of this section is guilty of a civil offense and
37 may be subject to a civil penalty of up to twelve thousand five hundred dollars for each violation.
38 The attorney general may enforce the provisions of this section pursuant to any powers granted
39 to him or her pursuant to any relevant provisions provided by Missouri statutes or the Missouri
40 Constitution.

41 [10.] 11. Any utility claiming an exemption as provided in subsection 7 of this section
42 shall comply with all applicable state and local laws, ordinances or regulations relating to the
43 installation or maintenance of HVAC systems including all permit requirements. A continuing
44 pattern of failure to comply with said requirements shall provide the basis for a finding by any
45 court of competent jurisdiction or the public service commission that the utility has waived its
46 claim of exemption pursuant to subsection 7 of this section.

47 **12. Every utility in this state shall comply with all local permit and code**
48 **requirements.**

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