

SECOND REGULAR SESSION

HOUSE BILL NO. 1936

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BERKOWITZ, SHOEMYER (9), COPENHAVER, DAVIS, SMITH, KREIDER, BARNITZ (Co-sponsors), BRITT, HAMPTON, SEIGFREID, MYERS, BLACK, BARRY, MERIDETH, GAMBARO, GRATZ, KING, QUINN, TOWNLEY AND KELLY (144).

Read 1st time February 14, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4533L.011

AN ACT

To repeal sections 261.110, 261.230, 261.235 and 261.239, RSMo, and to enact in lieu thereof six new sections relating to agriculture.

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

Section A. Sections 261.110, 261.230, 261.235 and 261.239, RSMo, are repealed and
2 six new sections enacted in lieu thereof, to be known as sections 261.110, 261.120, 261.230,
3 261.235, 261.239 and 261.240, to read as follows:

261.110. 1. The department of agriculture shall develop standards and labeling for
2 organic farming.

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

5 3. **The department may cooperate with any agency of the federal government, any**
6 **state, any other agency in this state, any private entity or person engaged in growing,**
7 **processing, marketing of organic products, or any group of such persons in this state, in**
8 **programs to effectuate such purposes. Such agreements may provide for cost and revenue**
9 **sharing, and for division of duties and responsibilities under this section and may include**
10 **other provisions generally to effectuate the purposes of this section.**

11 4. No rule or portion of a rule promulgated pursuant to the authority of this section shall
12 become effective unless it has been promulgated pursuant to the provisions of chapter 536,
13 RSMo.

261.120. There is hereby created in the state treasury the "Organic Production and

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

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 of Missouri agricultural products marketing
11 development as specified in this section. The unexpended balance in the Missouri agricultural
12 products marketing development fund at the end of the biennium shall not be transferred to the
13 ordinary revenue fund of the state treasury and accordingly shall be exempt from the provisions
14 of section 33.080, RSMo, relating to transfer of funds to the ordinary revenue funds of the state
15 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**
21 **the Missouri agricultural products marketing development fund created pursuant to subsection**
22 **1 of 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.

32 [3.] The commission shall establish a fee structure for sellers electing to use the
33 AgriMissouri or successor trademark associated with Missouri agricultural products. [Under the
34 fee structure: (1) a seller having gross annual sales greater than two million dollars per fiscal
35 year of Missouri agricultural products which constitute the final product of a series of processes
36 or activities shall remit to the marketing division of the department of agriculture, at such times
37 and in such manner as may be prescribed, a trademark fee of one-half of one percent of the
38 aggregate amount of all of such seller's wholesale sales of products carrying the AgriMissouri
39 or successor trademark; and (2) all sellers having gross annual sales less than or equal to two
40 million dollars per fiscal year of Missouri agricultural products which constitute the final product
41 of a series of processes or activities shall, after three years of selling Missouri agricultural
42 products carrying the AgriMissouri or successor trademark, remit to the marketing division of
43 the department of agriculture, at such times and in such manner as may be prescribed, a
44 trademark fee of one-half of one percent of the aggregate amount of all of such seller's wholesale
45 sales of products carrying the AgriMissouri or successor trademark.] All trademark fees shall
46 be deposited to the credit of the Missouri agricultural products marketing development fund,
47 created pursuant to this section. The commission may also create two additional trademark
48 labels to be associated with Missouri agricultural products [which are] **for the labeling of**
49 **Missouri** certified organic products and **Missouri** certified family-farm-produced products.

50 [4.] **3.** The marketing division of the department of agriculture is authorized to [promote]
51 **promulgate** rules consistent with the guidelines and fee structure established by the commission.
52 No rule or portion of a rule shall become effective unless it has been promulgated pursuant to
53 the provisions of chapter 536, RSMo.

54 [5.] **4.** The commission shall consist of nine members appointed by the governor with
55 the advice and consent of the senate. One member shall be the director of the market
56 development division of the department of agriculture, **or his or her representative**. At least
57 one member shall be a specialist in advertising; at least one member shall be a specialist in
58 agribusiness; at least one member shall be a specialist in the retail grocery business; at least one
59 member shall be a specialist in communications; at least one member shall be a specialist in

60 product distribution; at least one member shall be a family farmer with expertise in livestock
61 farming; at least one member shall be a family farmer with expertise in grain farming and at least
62 one member shall be a family farmer with expertise in organic farming. Members shall serve
63 for four-year terms, except in the first appointments three members shall be appointed for terms
64 of four years, three members shall be appointed for terms of three years and three members shall
65 be appointed for terms of two years each. Any member appointed to fill a vacancy of an
66 unexpired term shall be appointed for the remainder of the term of the member causing the
67 vacancy. The governor shall appoint a chairperson of the commission, subject to ratification by
68 the commission.

69 [6.] 5. Commission members shall receive no compensation but shall be reimbursed for
70 actual and necessary expenses incurred in the performance of their official duties on the
71 commission. The division of market development of the department of agriculture shall provide
72 all necessary staff and support services as required by the commission to hold commission
73 meetings, to maintain records of official acts and to conduct all other business of the
74 commission. The commission shall meet quarterly and at any such time that it deems necessary.
75 Meetings may be called by the chairperson or by a petition signed by a majority of the members
76 of the commission. Ten days' notice shall be given in writing to such members prior to the
77 meeting date. A simple majority of the members of the commission shall be present to constitute
78 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.]

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