

SECOND REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

SENATE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1508

91ST GENERAL ASSEMBLY

3295S.03T

2002

AN ACT

To repeal sections 226.540, 226.550, 226.573, 226.580, and 226.585, RSMo, and to enact in lieu thereof five new sections relating to highway beautification.

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

Section A. Section 226.540, 226.550, 226.573, 226.580, and 226.585, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 226.540, 226.550,
3 226.573, 226.580, and 226.585, to read as follows:

226.540. Notwithstanding any other provisions of sections 226.500 to 226.600, outdoor
2 advertising shall be permitted within six hundred and sixty feet of the nearest edge of the
3 right-of-way of [any interstate or primary highway] **highways located on the interstate,**
4 **federal-aid primary system as it existed on June 1, 1991, or the national highway system**
5 **as amended** in areas zoned industrial, commercial or the like and in unzoned commercial and
6 industrial areas as defined in this section, subject to the following regulations which are
7 consistent with customary use in this state:

8 (1) Lighting:

9 (a) No revolving or rotating beam or beacon of light that simulates any emergency light
10 or device shall be permitted as part of any sign. No flashing, intermittent, or moving light or
11 lights will be permitted except scoreboards and other illuminated signs designating public service
12 information, such as time, date, or temperature, or similar information, will be allowed; **tri-**
13 **vision, projection, and other changeable message signs shall be allowed subject to Missouri**
14 **highway and transportation commission regulations;**

15 (b) External lighting, such as floodlights, thin line and gooseneck reflectors are
16 permitted, provided the light source is directed upon the face of the sign and is effectively

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

17 shielded so as to prevent beams or rays of light from being directed into any portion of the main
18 traveled way of the federal-aid primary highways as of June 1, 1991, and all highways designated
19 as part of the National Highway System by the National Highway System Designation Act of
20 1995 and those highways subsequently designated as part of the National Highway System and
21 the lights are not of such intensity so as to cause glare, impair the vision of the driver of a motor
22 vehicle, or otherwise interfere with a driver's operation of a motor vehicle;

23 (c) No sign shall be so illuminated that it interferes with the effectiveness of, or
24 obscures, an official traffic sign, device, or signal;

25 (2) Size of signs:

26 (a) The maximum area for any one sign shall be eight hundred square feet with a
27 maximum height of thirty feet and a maximum length of seventy-two feet, inclusive of border
28 and trim but excluding the base or apron, supports, and other structural members. The area shall
29 be measured as established **herein and** in rules promulgated by the commission. In determining
30 the size of a **conforming or nonconforming** sign structure, temporary cutouts and extensions
31 installed for the length of a specific display contract shall not be [included in calculating]
32 **considered a substantial increase to** the size of the permanent display; provided the actual
33 square footage of such temporary cutouts or extensions may not exceed thirty-three percent of
34 the permanent display area. **Signs erected in accordance with the provisions of sections**
35 **226.500 to 226.600 prior to the effective date of this provision which fail to meet the**
36 **requirements of this provision shall be deemed legally nonconforming as defined herein;**

37 (b) The maximum size limitations shall apply to each side of a sign structure, and signs
38 may be placed back to back, double faced, or in V-type construction with not more than two
39 displays to each facing, but such sign structure shall be considered as one sign;

40 (c) After August 28, 1999, no new sign structure shall be erected in which two or more
41 displays are stacked one above the other. Stacked structures existing on or before August 28,
42 1999, in accordance with sections 226.500 to 226.600 shall [not] be deemed **legally**
43 **nonconforming** [for failure to meet the requirements of this section until such sign's structure is
44 modified, repaired, replaced or rebuilt] **and may be maintained in accordance with the**
45 **provisions of 226.500 to 226.600.** Structures displaying more than one display on a horizontal
46 basis shall be allowed, provided that total display areas do not exceed the maximum allowed
47 square footage for a sign structure pursuant to the provisions of paragraph (a) of subdivision (2)
48 of this section;

49 (3) Spacing of signs:

50 (a) **On all** interstate highways [and], freeways [on the], **and nonfreeway** federal-aid
51 primary highways as of June 1, 1991, and all highways designated as part of the National
52 Highway System by the National Highway System Designation Act of 1995 and those highways

53 subsequently designated as part of the National Highway System:

54 a. No sign structure shall be erected within [five hundred] **one thousand four hundred**
55 feet of an existing sign on the same side of the highway;

56 b. Outside of incorporated municipalities, no structure may be located adjacent to or
57 within five hundred feet of an interchange, intersection at grade, or safety rest area. Such five
58 hundred feet shall be measured from the beginning or ending of the pavement widening at the
59 exit from or entrance to the main traveled way. For purpose of this subparagraph, the term
60 "incorporated municipalities" shall include "urban areas", except that such "urban areas" shall
61 not be considered "incorporated municipalities" if it is finally determined that such would have
62 the effect of making Missouri be in noncompliance with the requirements of Title 23, United
63 States Code, Section 131;

64 (b) [Nonfreeway federal-aid primary highways as of June 1, 1991, and all highways
65 designated as part of the National Highway System by the National Highway System Designation
66 Act of 1995 and those highways subsequently designated as part of the National Highway
67 System:

68 a. Outside incorporated municipalities, no structure shall be erected within five hundred
69 feet of an existing sign on the same side of the highway. Sign structures existing prior to August
70 28, 1999, which complied with the requirements of this section when erected shall not be
71 deemed nonconforming for failure to comply with the spacing provisions of this section until
72 such sign's structure is modified, repaired, replaced or rebuilt;

73 b. Within incorporated municipalities, no structure shall be erected within five hundred
74 feet of an existing sign. Sign structures existing prior to August 28, 1999, which complied with
75 the requirements of this section when erected shall not be deemed nonconforming for failure to
76 comply with the spacing provisions of this section until such sign's structure is modified,
77 repaired, replaced or rebuilt;

78 (c)] The spacing between structure provisions of subdivision (3) of this section do not
79 apply to signs which are separated by buildings, natural surroundings, or other obstructions in
80 such manner that only one sign facing located within such distance is visible at any one
81 time. Directional or other official signs or those advertising the sale or lease of the property on
82 which they are located, or those which advertise activities on the property on which they are
83 located, including products sold, shall not be counted, nor shall measurements be made from
84 them for the purpose of compliance with spacing provisions;

85 [(d)] (c) No sign shall be located in such manner as to obstruct or otherwise physically
86 interfere with the effectiveness of an official traffic sign, signal, or device or obstruct or
87 physically interfere with a motor vehicle operator's view of approaching, merging, or intersecting
88 traffic;

89 [(e)] **(d)** The measurements in this section shall be the minimum distances between
90 outdoor advertising sign structures measured along the nearest edge of the pavement between
91 points directly opposite the signs along each side of the highway and shall apply only to outdoor
92 advertising sign structures located on the same side of the highway involved;

93 (4) As used in this section, the words "unzoned commercial and industrial land" shall
94 be defined as follows: that area not zoned by state or local law or ordinance and on which there
95 is located one or more permanent structures used for a commercial business or industrial activity
96 or on which a commercial or industrial activity is actually conducted together with the area along
97 the highway extending outwardly **[six hundred] seven hundred fifty** feet from and beyond the
98 edge of such activity. All measurements shall be from the outer edges of the regularly used
99 improvements, buildings, parking lots, landscaped, storage or processing areas of the commercial
100 or industrial activity and along and parallel to the edge of the pavement of the highway. [On
101 nonfreeway federal-aid primary highways as of June 1, 1991, and all highways designated as part
102 of the National Highway System by the National Highway System Designation Act of 1995 and
103 those highways subsequently designated as part of the National Highway System, where there
104 is an unzoned commercial or industrial area on one side of the road as described in this section,
105 the term "unzoned commercial or industrial land" shall also include those lands directly opposite
106 on the other side of the highway to the extent of the same dimensions.] Unzoned land shall not
107 include:

108 (a) Land on the opposite side of **[an interstate or freeway primary] the** highway from an
109 unzoned commercial or industrial area as defined in this section **and located adjacent to**
110 **highways located on the interstate, federal-aid primary system as it existed on June 1, 1991,**
111 **or the national highway system as amended, unless the opposite side of the highway**
112 **qualifies as a separate unzoned commercial or industrial area;**

113 (b) Land zoned by a state or local law, regulation, or ordinance;

114 [(c) Land on the opposite side of a nonfreeway primary highway which is determined
115 by the proper state authority to be a scenic area;]

116 (5) "Commercial or industrial activities" as used in this section means those which are
117 generally recognized as commercial or industrial by zoning authorities in this state, except that
118 none of the following shall be considered commercial or industrial:

119 (a) Outdoor advertising structures;

120 (b) Agricultural, forestry, ranching, grazing, farming, and related activities, including
121 seasonal roadside fresh produce stands;

122 (c) Transient or temporary activities;

123 (d) Activities more than six hundred sixty feet from the nearest edge of the right-of-way
124 or not visible from the main traveled way;

125 (e) Activities conducted in a building principally used as a residence;
126 (f) Railroad tracks and minor sidings;

127 (6) The words "unzoned commercial or industrial land" shall also include all areas not
128 specified in this section which constitute an "unzoned commercial or industrial area" within the
129 meaning of the present Section 131 of Title 23 of the United States Code, or as such statute may
130 be amended. As used in this section, the words "zoned commercial or industrial area" shall refer
131 to those areas zoned commercial or industrial by the duly constituted zoning authority of a
132 municipality, county, or other lawfully established political subdivision of the state, or by the
133 state **and which is within seven hundred fifty feet of one or more permanent commercial**
134 **or industrial activities.** [Unzoned] Commercial or industrial activities as used in this section
135 are limited to those activities:

136 (a) In which the primary use of the property is commercial or industrial in nature;
137 (b) Which are clearly visible from the highway and recognizable as a commercial
138 business;

139 (c) Which are permanent as opposed to temporary or transitory and of a nature that
140 would customarily be restricted to commercial or industrial zoning in areas comprehensively
141 zoned; and

142 (d) In determining whether the primary use of the property is commercial or industrial
143 pursuant to paragraph (a) of this subdivision, the state highways and transportation commission
144 shall consider the following factors:

145 a. The presence of a permanent and substantial building;
146 b. The existence of utilities and [required] **local** business licenses, if any, for the
147 commercial activity;

148 c. On-premise signs or other identification;

149 d. [Communication with the business owner that can be accomplished at regular
150 intervals either in person, by telephone, by fax machine, by electronic mail or by some other
151 business means] **The presence of an owner or employee on the premises for at least twenty**
152 **hours per week;**

153 (7) In zoned commercial and industrial areas, whenever a state, county or municipal
154 zoning authority has adopted laws or ordinances which include regulations with respect to the
155 size, lighting and spacing of signs, which regulations are consistent with the intent of sections
156 226.500 to 226.600 and with customary use, then from and after the effective date of such
157 regulations, and so long as they shall continue in effect, the provisions of this section shall not
158 apply to the erection of signs in such areas. Notwithstanding any other provisions of this section,
159 after August 28, 1992, with respect to any outdoor advertising which is regulated by the
160 provisions of subdivision (1), (3) or (4) of section 226.520 or subsection 1 of section 226.527:

161 (a) No county or municipality shall issue a permit to allow a regulated sign to be newly
162 erected without a permit issued by the state highways and transportation commission;

163 (b) A county or municipality may charge a reasonable one-time permit or inspection fee
164 to assure compliance with local wind load and electrical requirements when the sign is first
165 erected, but a county or municipality may not charge a permit or inspection fee for such sign after
166 such initial fee. Changing the display face or performing routine maintenance shall not be
167 considered as erecting a new sign;

168 (8) The state highways and transportation commission on behalf of the state of Missouri,
169 may seek agreement with the Secretary of Transportation of the United States under Section 131
170 of Title 23, United States Code, as amended, that sections 226.500 to 226.600 are in
171 conformance with that Section 131 and provides effective control of outdoor advertising signs
172 as set forth therein. If such agreement cannot be reached and the penalties under subsection (b)
173 of Section 131 are invoked, the attorney general of this state shall institute proceedings described
174 in subsection (1) of that Section 131.

226.550. 1. No outdoor advertising which is regulated by subdivision (1), (3) or (4) of
2 section 226.520 or subsection 1 of section 226.527 shall be erected or maintained on or after
3 August 28, 1992, without a one-time permanent permit issued by the state highways and
4 transportation commission. Application for permits shall be made to the state highways and
5 transportation commission on forms furnished by the commission and shall be accompanied by
6 a permit fee of [twenty-eight dollars and fifty cents] **two hundred dollars** for all signs; except
7 that, tax-exempt religious organizations as defined in subdivision (11) of section 313.005,
8 RSMo, service organizations as defined in subdivision (12) of section 313.005, RSMo, veterans'
9 organizations as defined in subdivision (14) of section 313.005, RSMo, and fraternal
10 organizations as defined in subdivision (8) of section 313.005, RSMo, shall be granted a permit
11 for signs less than seventy-six square feet without payment of the fee. In the event a permit
12 holder fails to erect a sign structure within twenty-four months of issuance, said permit shall
13 expire and a new permit must be obtained prior to any construction.

14 2. No outdoor advertising which is regulated by subdivision (1), (3) or (4) of section
15 226.520 or subsection 1 of section 226.527 which was erected prior to August 28, 1992, shall
16 be maintained without a one-time permanent permit for outdoor advertising issued by the state
17 highways and transportation commission. If a one-time permanent permit was issued by the state
18 highways and transportation commission after March 30, 1972, and before August 28, 1992, it
19 is not necessary for a new permit to be issued. If a one-time permanent permit was not issued
20 for a lawfully erected and lawfully existing sign by the state highways and transportation
21 commission after March 30, 1972, and before August 28, 1992, a one-time permanent permit
22 shall be issued by the commission for each sign which is lawfully in existence on the day prior

23 to August 28, 1992, upon application and payment of a permit fee of [twenty-eight dollars and
24 fifty cents] **two hundred dollars**. All applications and fees due pursuant to this subsection shall
25 be submitted before December 31, 1992.

26 3. For purposes of sections 226.500 to 226.600, the terminology "structure lawfully in
27 existence" or "lawfully existing" sign or outdoor advertising shall, nevertheless, include the
28 following signs unless the signs violate the provisions of subdivisions (3) to (7) of subsection
29 1 of section 226.580:

30 (1) All signs erected prior to January 1, 1968;

31 (2) All signs erected before March 30, 1972, but on or after January 1, 1968, which
32 would otherwise be lawful but for the failure to have a permit for such signs prior to March 30,
33 1972, except that any sign or structure which was not in compliance with sizing, spacing,
34 lighting, or location requirements of sections 226.500 to 226.600 as the sections appeared in the
35 revised statutes of Missouri 1969, wheresoever located, shall not be considered a lawfully
36 existing sign or structure;

37 (3) All signs erected after March 30, 1972, which are in conformity with sections
38 226.500 to 226.600[.];

39 (4) **All signs erected in compliance with sections 226.500 to 226.600 prior to the**
40 **effective date of this act.**

41 4. On or after August 28, 1992, the state highways and transportation commission may,
42 in addition to the fees authorized by subsections 1 and 2 of this section, collect a biennial
43 inspection fee every two years after a state permit has been issued. Biennial inspection fees due
44 after August 28, [1992,] **2002, and prior to August 28, 2003**, shall be [twenty-eight dollars and
45 fifty cents] **fifty dollars**. **Biennial inspection fees due on or after August 28, 2003, shall be**
46 **seventy-five dollars**. **Biennial inspection fees due on or after August 28, 2004, shall be one**
47 **hundred dollars**; except that, tax-exempt religious organizations as defined in subdivision (11)
48 of section 313.005, RSMo, service organizations as defined in subdivision (12) of section
49 313.005, RSMo, veterans' organizations as defined in subdivision (14) of section 313.005,
50 RSMo, and fraternal organizations as defined in subdivision (8) of section 313.005, RSMo, shall
51 not be required to pay such fee.

52 5. [In order to effect collection from a sign owner of delinquent and unpaid biennial
53 inspection fees which are payable pursuant to this section, or delinquent removal costs pursuant
54 to section 226.580, the state highways and transportation commission may require any delinquent
55 fees to be paid before a permit is issued to the delinquent sign owner for any new sign.] **In order**
56 **to effect the more efficient collection of biennial inspection fees, the state highways and**
57 **transportation commission is encouraged to adopt a renewal system in which all permits**
58 **in a particular county are renewed in the same month. In conjunction with the conversion**

59 **to this renewal system, the state highways and transportation commission is specifically**
60 **authorized to prorate renewal fees based on changes in renewal dates.**

61 6. Sign owners or owners of the land on which signs are located must apply to the state
62 highways and transportation commission for biennial inspection and submit any fees as required
63 by this section on or before December 31, 1992. For a permitted sign which does not have a
64 permit, a permit shall be issued at the time of the next biennial inspection.

65 7. The state highways and transportation commission shall deposit all fees received for
66 outdoor advertising permits and inspection fees in the state road fund, keeping a separate record
67 of such fees, and the same may be expended by the commission in the administration of sections
68 226.500 to 226.600.

226.573. The state highways and transportation commission is authorized to adopt
2 administrative rules regulating the use of new technology in outdoor advertising as allowed under
3 federal regulations for federal-aid primary highways as of June 1, 1991, and all highways
4 designated as part of the National Highway System by the National Highway System Designation
5 Act of 1995 and those highways subsequently designated as part of the National Highway
6 System. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is
7 promulgated pursuant to the authority delegated in this section shall become effective only if it
8 has been promulgated pursuant to the provisions of chapter 536, RSMo. This section and
9 chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly
10 pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul
11 a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule
12 proposed or adopted after [August 28, 1999] **the effective date of this section**, shall be invalid
13 and void.

226.580. 1. The following outdoor advertising within six hundred sixty feet of the
2 right-of-way of interstate or primary highways is deemed unlawful and shall be subject to
3 removal:

4 (1) Signs erected after March 30, 1972, contrary to the provisions of sections 226.500
5 to 226.600 and signs erected on or after January 1, 1968, but before March 30, 1972, contrary
6 to the sizing, spacing, lighting, or location provisions of sections 226.500 to 226.600 as they
7 appeared in the revised statutes of Missouri 1969; or

8 (2) Signs for which a permit is not obtained or a biennial inspection fee is [not paid as
9 prescribed in sections 226.500 to 226.600] **more than twelve months' past due**; or

10 (3) Signs which are obsolete; (Signs shall not be considered obsolete solely because they
11 temporarily do not carry an advertising message.) or

12 (4) Signs that are not in good repair; or

13 (5) Signs not securely affixed to a substantial structure; or

14 (6) Signs which attempt or appear to attempt to regulate, warn, or direct the movement
15 of traffic or which interfere with, imitate, or resemble any official traffic sign, signal, or device;
16 or

17 (7) Signs which are erected or maintained upon trees or painted or drawn upon rocks or
18 other natural features.

19 2. Signs erected after August 13, 1976, beyond six hundred sixty feet of the right-of-way
20 outside of urban areas, visible from the main traveled way of the interstate or primary system and
21 erected with the purpose of their message being read from such traveled way, except those signs
22 described in subdivisions (1) and (2) of section 226.520 are deemed unlawful and shall be
23 subject to removal.

24 3. If a sign is deemed to be unlawful for any of the reasons set out in subsections 1 [and
25 2] **through 7** of this section, the state highways and transportation commission shall give notice
26 either by certified mail or by personal service to the owner or occupant of the land on which
27 advertising believed to be unlawful is located and the owner of the outdoor advertising
28 structure. Such notice shall specify the basis for the alleged unlawfulness, shall specify the
29 remedial action which is required to correct the unlawfulness and shall advise that a failure to
30 take the remedial action within [thirty] **sixty** days will result in the sign being removed. Within
31 [thirty] **sixty** days after receipt of the notice as to him, the owner of the land or of the structure
32 may remove the sign or may take the remedial action specified or may file an action for
33 administrative review pursuant to the provisions of sections 536.067 to 536.090, RSMo, to
34 review the action of the state highways and transportation commission, or he may proceed under
35 the provisions of section 536.150, RSMo, as if the act of the highways and transportation
36 commission was one not subject to administrative review. Notwithstanding any other provisions
37 of sections 226.500 to 226.600, no outdoor advertising structure erected prior to August 28,
38 1992, defined as a "structure lawfully in existence" or "lawfully existing", by subdivision (1), (2)
39 or (3) of subsection 2 of section 226.550, shall be removed for failure to have a permit until a
40 notice, as provided in this section, has been issued which shall specify failure to obtain a permit
41 or pay a biennial inspection fee as the basis for alleged unlawfulness, and shall advise that failure
42 to take the remedial action of applying for a permit or paying the inspection fee within [thirty]
43 **sixty** days will result in the sign being removed. **Signs for which biennial inspection fees are**
44 **delinquent shall not be removed unless the fees are more than twelve months' past due and**
45 **actual notice of the delinquency has been provided to the sign owner.** Upon application
46 made within the [thirty-day] **sixty-day** period as provided in this section, and accompanied by
47 the fee prescribed by section 226.550, together with any inspection fees that would have been
48 payable if a permit had been timely issued, the state highways and transportation commission
49 shall issue a one-time permanent permit for such sign. Such signs with respect to which permits

50 are so issued are hereby determined by the state of Missouri to have been lawfully erected within
51 the meaning of "lawfully erected" as that term is used in Title 23, United States Code, section
52 131(g), as amended, and shall only be removed upon payment of just compensation, except that
53 the issuance of permits shall not entitle the owners of such signs to compensation for their
54 removal if it is finally determined that such signs are not "lawfully erected" as that term is used
55 in section 131(g) of Title 23 of the United States Code.

56 4. If **actual** notice as provided in this section is given and neither the remedial action
57 specified is taken nor an action for review is filed, or if an action for review is filed and is finally
58 adjudicated in favor of the state highways and transportation commission, the state highways and
59 transportation commission shall have authority to immediately remove the unlawful outdoor
60 advertising. The owner of the structure shall be liable for the costs of such removal. The
61 commission shall incur no liability for causing this removal, except for damage caused by
62 negligence of the commission, its agents or employees.

63 5. If notice as provided in this section is given and an action for review is filed under the
64 provisions of section 536.150, RSMo, or if administrative review pursuant to the provisions of
65 sections 536.067 to 536.090, RSMo, is filed and the state highways and transportation
66 commission enters its final decision and order to remove the outdoor advertising structure, the
67 advertising message contained on the structure shall be removed or concealed by the owner of
68 the structure, at the owner's expense, until the action for judicial review is finally adjudicated. If
69 the owner of the structure refuses or fails to remove or conceal the advertising message, the
70 commission may remove or conceal the advertising message and the owner of the structure shall
71 be liable for the costs of such removal or concealment. The commission shall incur no liability
72 for causing the removal or concealment of the advertising message while an action for review
73 is pending, except if the owner finally prevails in its action for judicial review, the commission
74 will compensate the owner at the rate the owner is actually receiving income from the advertiser
75 pursuant to written lease from the time the message is removed until the judicial review is final.

76 6. Any signs advertising tourist oriented type business will be the last to be removed.

77 7. Any signs prohibited by section 226.527 which were lawfully erected prior to August
78 13, 1976, shall be removed pursuant to section 226.570.

79 8. The transportation department shall reimburse to the lawful owners of any said
80 nonconforming signs that are now in existence as defined in sections 226.540, 226.550, 226.580
81 and 226.585, said compensation calculated and/or based on a fair market value and not mere
82 replacement cost.

226.585. The state transportation department may cut and trim any vegetation on the
2 highway right-of-way which interferes with the effectiveness of or obscures a lawfully erected
3 billboard, or the highways and transportation commission shall promulgate reasonable rules and

4 regulations to permit the cutting and trimming of such vegetation on the highway or right-of-way
5 by the owner of such billboard. **The right to a vegetation permit by an outdoor advertising**
6 **permit holder shall be issued in accordance with the current rules and regulations**
7 **promulgated by the highways and transportation commission and shall not be denied**
8 **without good cause.** Such rules and regulations shall be promulgated within twelve months
9 after August 28, 1992, or the commission shall suspend the collection of the biennial inspection
10 fees prescribed by section 226.550 until such rules are promulgated, and such rules may include
11 authority to charge a reasonable fee for such [permission] **permit.** This section shall not apply
12 if its implementation would have the effect of making Missouri be in noncompliance with
13 requirements of Title 23, United States Code, section 131.