

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR

HOUSE BILL NO. 458

96TH GENERAL ASSEMBLY

1391L.03T

2011

AN ACT

To repeal sections 144.030, 263.190, 263.200, 263.205, 263.220, 263.230, 263.232, 263.240, 263.241, 263.450, 268.121, 276.401, 276.416, 276.421, 276.436, 276.441, 276.446, and 411.280, RSMo, and to enact in lieu thereof thirteen new sections relating to agriculture, with penalty provisions.

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

Section A. Sections 144.030, 263.190, 263.200, 263.205, 263.220, 263.230, 263.232, 263.240, 263.241, 263.450, 268.121, 276.401, 276.416, 276.421, 276.436, 276.441, 276.446, and 411.280, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 144.030, 262.815, 263.190, 263.200, 263.220, 263.240, 268.121, 276.401, 276.421, 276.436, 276.441, 411.280, and 442.014, to read as follows:

144.030. 1. There is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and any other state of the United States, or between this state and any foreign country, and any retail sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of the United States of America, and such retail sales of tangible personal property which the general assembly of the state of Missouri is prohibited from taxing or further taxing by the constitution of this state.

2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to

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.

11 144.761 and from the computation of the tax levied, assessed or payable pursuant to the local
12 sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and
13 144.600 to 144.745:

14 (1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of
15 such excise tax is refunded pursuant to section 142.824; or upon the sale at retail of fuel to be
16 consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing
17 water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into
18 foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or
19 fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will
20 be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at
21 retail; economic poisons registered pursuant to the provisions of the Missouri pesticide
22 registration law (sections 281.220 to 281.310) which are to be used in connection with the
23 growth or production of crops, fruit trees or orchards applied before, during, or after planting,
24 the crop of which when harvested will be sold at retail or will be converted into foodstuffs which
25 are to be sold ultimately in processed form at retail;

26 (2) Materials, manufactured goods, machinery and parts which when used in
27 manufacturing, processing, compounding, mining, producing or fabricating become a component
28 part or ingredient of the new personal property resulting from such manufacturing, processing,
29 compounding, mining, producing or fabricating and which new personal property is intended to
30 be sold ultimately for final use or consumption; and materials, including without limitation,
31 gases and manufactured goods, including without limitation slagging materials and firebrick,
32 which are ultimately consumed in the manufacturing process by blending, reacting or interacting
33 with or by becoming, in whole or in part, component parts or ingredients of steel products
34 intended to be sold ultimately for final use or consumption;

35 (3) Materials, replacement parts and equipment purchased for use directly upon, and for
36 the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock
37 or aircraft engaged as common carriers of persons or property;

38 (4) Replacement machinery, equipment, and parts and the materials and supplies solely
39 required for the installation or construction of such replacement machinery, equipment, and
40 parts, used directly in manufacturing, mining, fabricating or producing a product which is
41 intended to be sold ultimately for final use or consumption; and machinery and equipment, and
42 the materials and supplies required solely for the operation, installation or construction of such
43 machinery and equipment, purchased and used to establish new, or to replace or expand existing,
44 material recovery processing plants in this state. For the purposes of this subdivision, a "material
45 recovery processing plant" means a facility that has as its primary purpose the recovery of
46 materials into a useable product or a different form which is used in producing a new product and

47 shall include a facility or equipment which are used exclusively for the collection of recovered
48 materials for delivery to a material recovery processing plant but shall not include motor vehicles
49 used on highways. For purposes of this section, the terms motor vehicle and highway shall have
50 the same meaning pursuant to section 301.010. Material recovery is not the reuse of materials
51 within a manufacturing process or the use of a product previously recovered. The material
52 recovery processing plant shall qualify under the provisions of this section regardless of
53 ownership of the material being recovered;

54 (5) Machinery and equipment, and parts and the materials and supplies solely required
55 for the installation or construction of such machinery and equipment, purchased and used to
56 establish new or to expand existing manufacturing, mining or fabricating plants in the state if
57 such machinery and equipment is used directly in manufacturing, mining or fabricating a product
58 which is intended to be sold ultimately for final use or consumption;

59 (6) Tangible personal property which is used exclusively in the manufacturing,
60 processing, modification or assembling of products sold to the United States government or to
61 any agency of the United States government;

62 (7) Animals or poultry used for breeding or feeding purposes;

63 (8) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and
64 other machinery, equipment, replacement parts and supplies used in producing newspapers
65 published for dissemination of news to the general public;

66 (9) The rentals of films, records or any type of sound or picture transcriptions for public
67 commercial display;

68 (10) Pumping machinery and equipment used to propel products delivered by pipelines
69 engaged as common carriers;

70 (11) Railroad rolling stock for use in transporting persons or property in interstate
71 commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or
72 more or trailers used by common carriers, as defined in section 390.020, in the transportation of
73 persons or property;

74 (12) Electrical energy used in the actual primary manufacture, processing, compounding,
75 mining or producing of a product, or electrical energy used in the actual secondary processing
76 or fabricating of the product, or a material recovery processing plant as defined in subdivision
77 (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical
78 energy so used exceeds ten percent of the total cost of production, either primary or secondary,
79 exclusive of the cost of electrical energy so used or if the raw materials used in such processing
80 contain at least twenty-five percent recovered materials as defined in section 260.200. There
81 shall be a rebuttable presumption that the raw materials used in the primary manufacture of
82 automobiles contain at least twenty-five percent recovered materials. For purposes of this

83 subdivision, "processing" means any mode of treatment, act or series of acts performed upon
84 materials to transform and reduce them to a different state or thing, including treatment necessary
85 to maintain or preserve such processing by the producer at the production facility;

86 (13) Anodes which are used or consumed in manufacturing, processing, compounding,
87 mining, producing or fabricating and which have a useful life of less than one year;

88 (14) Machinery, equipment, appliances and devices purchased or leased and used solely
89 for the purpose of preventing, abating or monitoring air pollution, and materials and supplies
90 solely required for the installation, construction or reconstruction of such machinery, equipment,
91 appliances and devices;

92 (15) Machinery, equipment, appliances and devices purchased or leased and used solely
93 for the purpose of preventing, abating or monitoring water pollution, and materials and supplies
94 solely required for the installation, construction or reconstruction of such machinery, equipment,
95 appliances and devices;

96 (16) Tangible personal property purchased by a rural water district;

97 (17) All amounts paid or charged for admission or participation or other fees paid by or
98 other charges to individuals in or for any place of amusement, entertainment or recreation, games
99 or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a
100 municipality or other political subdivision where all the proceeds derived therefrom benefit the
101 municipality or other political subdivision and do not inure to any private person, firm, or
102 corporation;

103 (18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1,
104 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of
105 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically
106 including hearing aids and hearing aid supplies and all sales of drugs which may be legally
107 dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to
108 administer those items, including samples and materials used to manufacture samples which may
109 be dispensed by a practitioner authorized to dispense such samples and all sales of medical
110 oxygen, home respiratory equipment and accessories, hospital beds and accessories and
111 ambulatory aids, all sales of manual and powered wheelchairs, stairway lifts, Braille writers,
112 electronic Braille equipment and, if purchased by or on behalf of a person with one or more
113 physical or mental disabilities to enable them to function more independently, all sales of
114 scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and
115 augmentative communication devices, and items used solely to modify motor vehicles to permit
116 the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or
117 nonprescription drugs to individuals with disabilities;

118 (19) All sales made by or to religious and charitable organizations and institutions in
119 their religious, charitable or educational functions and activities and all sales made by or to all
120 elementary and secondary schools operated at public expense in their educational functions and
121 activities;

122 (20) All sales of aircraft to common carriers for storage or for use in interstate commerce
123 and all sales made by or to not-for-profit civic, social, service or fraternal organizations,
124 including fraternal organizations which have been declared tax-exempt organizations pursuant
125 to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or
126 charitable functions and activities and all sales made to eleemosynary and penal institutions and
127 industries of the state, and all sales made to any private not-for-profit institution of higher
128 education not otherwise excluded pursuant to subdivision (19) of this subsection or any
129 institution of higher education supported by public funds, and all sales made to a state relief
130 agency in the exercise of relief functions and activities;

131 (21) All ticket sales made by benevolent, scientific and educational associations which
132 are formed to foster, encourage, and promote progress and improvement in the science of
133 agriculture and in the raising and breeding of animals, and by nonprofit summer theater
134 organizations if such organizations are exempt from federal tax pursuant to the provisions of the
135 Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any
136 fair conducted by a county agricultural and mechanical society organized and operated pursuant
137 to sections 262.290 to 262.530;

138 (22) All sales made to any private not-for-profit elementary or secondary school, all sales
139 of feed additives, medications or vaccines administered to livestock or poultry in the production
140 of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for
141 food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber,
142 all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying
143 agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as
144 defined in section 142.028, natural gas, propane, and electricity used by an eligible new
145 generation cooperative or an eligible new generation processing entity as defined in section
146 348.432, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and
147 trailers, **and any freight charges on any exempt item.** As used in this subdivision, the term
148 "feed additives" means tangible personal property which, when mixed with feed for livestock or
149 poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term
150 "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted
151 pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark
152 the application of pesticides and herbicides for the production of crops, livestock or poultry. As
153 used in this subdivision, the term "farm machinery and equipment" means new or used farm

154 tractors and such other new or used farm machinery and equipment and repair or replacement
155 parts thereon **and any accessories for and upgrades to such farm machinery and equipment,**
156 **rotary mowers used exclusively for agricultural purposes,** and supplies and lubricants used
157 exclusively, solely, and directly for producing crops, raising and feeding livestock, fish, poultry,
158 pheasants, chukar, quail, or for producing milk for ultimate sale at retail, including field drain
159 tile, and one-half of each purchaser's purchase of diesel fuel therefor which is:

160 (a) Used exclusively for agricultural purposes;

161 (b) Used on land owned or leased for the purpose of producing farm products; and

162 (c) Used directly in producing farm products to be sold ultimately in processed form or
163 otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold
164 ultimately in processed form at retail;

165 (23) Except as otherwise provided in section 144.032, all sales of metered water service,
166 electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil
167 for domestic use and in any city not within a county, all sales of metered or unmetered water
168 service for domestic use:

169 (a) "Domestic use" means that portion of metered water service, electricity, electrical
170 current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not
171 within a county, metered or unmetered water service, which an individual occupant of a
172 residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility
173 service through a single or master meter for residential apartments or condominiums, including
174 service for common areas and facilities and vacant units, shall be deemed to be for domestic use.
175 Each seller shall establish and maintain a system whereby individual purchases are determined
176 as exempt or nonexempt;

177 (b) Regulated utility sellers shall determine whether individual purchases are exempt or
178 nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file
179 with and approved by the Missouri public service commission. Sales and purchases made
180 pursuant to the rate classification "residential" and sales to and purchases made by or on behalf
181 of the occupants of residential apartments or condominiums through a single or master meter,
182 including service for common areas and facilities and vacant units, shall be considered as sales
183 made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales
184 tax upon the entire amount of purchases classified as nondomestic use. The seller's utility
185 service rate classification and the provision of service thereunder shall be conclusive as to
186 whether or not the utility must charge sales tax;

187 (c) Each person making domestic use purchases of services or property and who uses any
188 portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day
189 of the fourth month following the year of purchase, and without assessment, notice or demand,

190 file a return and pay sales tax on that portion of nondomestic purchases. Each person making
191 nondomestic purchases of services or property and who uses any portion of the services or
192 property so purchased for domestic use, and each person making domestic purchases on behalf
193 of occupants of residential apartments or condominiums through a single or master meter,
194 including service for common areas and facilities and vacant units, under a nonresidential utility
195 service rate classification may, between the first day of the first month and the fifteenth day of
196 the fourth month following the year of purchase, apply for credit or refund to the director of
197 revenue and the director shall give credit or make refund for taxes paid on the domestic use
198 portion of the purchase. The person making such purchases on behalf of occupants of residential
199 apartments or condominiums shall have standing to apply to the director of revenue for such
200 credit or refund;

201 (24) All sales of handicraft items made by the seller or the seller's spouse if the seller or
202 the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such
203 sales do not constitute a majority of the annual gross income of the seller;

204 (25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071,
205 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of
206 revenue shall promulgate rules pursuant to chapter 536 to eliminate all state and local sales taxes
207 on such excise taxes;

208 (26) Sales of fuel consumed or used in the operation of ships, barges, or waterborne
209 vessels which are used primarily in or for the transportation of property or cargo, or the
210 conveyance of persons for hire, on navigable rivers bordering on or located in part in this state,
211 if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while
212 it is afloat upon such river;

213 (27) All sales made to an interstate compact agency created pursuant to sections 70.370
214 to 70.441 or sections 238.010 to 238.100 in the exercise of the functions and activities of such
215 agency as provided pursuant to the compact;

216 (28) Computers, computer software and computer security systems purchased for use
217 by architectural or engineering firms headquartered in this state. For the purposes of this
218 subdivision, "headquartered in this state" means the office for the administrative management
219 of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

220 (29) All livestock sales when either the seller is engaged in the growing, producing or
221 feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering
222 or leasing of such livestock;

223 (30) All sales of barges which are to be used primarily in the transportation of property
224 or cargo on interstate waterways;

225 (31) Electrical energy or gas, whether natural, artificial or propane, water, or other
226 utilities which are ultimately consumed in connection with the manufacturing of cellular glass
227 products or in any material recovery processing plant as defined in subdivision (4) of this
228 subsection;

229 (32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or
230 herbicides used in the production of crops, aquaculture, livestock or poultry;

231 (33) Tangible personal property and utilities purchased for use or consumption directly
232 or exclusively in the research and development of agricultural/biotechnology and plant genomics
233 products and prescription pharmaceuticals consumed by humans or animals;

234 (34) All sales of grain bins for storage of grain for resale;

235 (35) All sales of feed which are developed for and used in the feeding of pets owned by
236 a commercial breeder when such sales are made to a commercial breeder, as defined in section
237 273.325, and licensed pursuant to sections 273.325 to 273.357;

238 (36) All purchases by a contractor on behalf of an entity located in another state,
239 provided that the entity is authorized to issue a certificate of exemption for purchases to a
240 contractor under the provisions of that state's laws. For purposes of this subdivision, the term
241 "certificate of exemption" shall mean any document evidencing that the entity is exempt from
242 sales and use taxes on purchases pursuant to the laws of the state in which the entity is located.
243 Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's
244 exemption certificate as evidence of the exemption. If the exemption certificate issued by the
245 exempt entity to the contractor is later determined by the director of revenue to be invalid for any
246 reason and the contractor has accepted the certificate in good faith, neither the contractor or the
247 exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result
248 of use of the invalid exemption certificate. Materials shall be exempt from all state and local
249 sales and use taxes when purchased by a contractor for the purpose of fabricating tangible
250 personal property which is used in fulfilling a contract for the purpose of constructing, repairing
251 or remodeling facilities for the following:

252 (a) An exempt entity located in this state, if the entity is one of those entities able to issue
253 project exemption certificates in accordance with the provisions of section 144.062; or

254 (b) An exempt entity located outside the state if the exempt entity is authorized to issue
255 an exemption certificate to contractors in accordance with the provisions of that state's law and
256 the applicable provisions of this section;

257 (37) All sales or other transfers of tangible personal property to a lessor who leases the
258 property under a lease of one year or longer executed or in effect at the time of the sale or other
259 transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441 or sections
260 238.010 to 238.100;

261 (38) Sales of tickets to any collegiate athletic championship event that is held in a facility
262 owned or operated by a governmental authority or commission, a quasi-governmental agency,
263 a state university or college or by the state or any political subdivision thereof, including a
264 municipality, and that is played on a neutral site and may reasonably be played at a site located
265 outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that
266 is not located on the campus of a conference member institution participating in the event;

267 (39) All purchases by a sports complex authority created under section 64.920, and all
268 sales of utilities by such authority at the authority's cost that are consumed in connection with
269 the operation of a sports complex leased to a professional sports team;

270 (40) Beginning January 1, 2009, but not after January 1, 2015, materials, replacement
271 parts, and equipment purchased for use directly upon, and for the modification, replacement,
272 repair, and maintenance of aircraft, aircraft power plants, and aircraft accessories;

273 (41) Sales of sporting clays, wobble, skeet, and trap targets to any shooting range or
274 similar places of business for use in the normal course of business and money received by a
275 shooting range or similar places of business from patrons and held by a shooting range or similar
276 place of business for redistribution to patrons at the conclusion of a shooting event.

**262.815. 1. This section shall be known and may be cited as the "Missouri
2 Farmland Trust Act". The purpose of this section is to allow individuals and entities to
3 donate, gift, or otherwise convey farmland to the state department of agriculture for the
4 purpose of preserving the land as farmland and to further provide beginning farmers with
5 an opportunity to farm by allowing long-term low and variable cost leases, thereby making
6 it affordable for the next generation of farmers to continue to produce food, fiber, and fuel.**

**7 2. There is hereby created the "Missouri Farmland Trust" which shall be
8 implemented in a manner to accomplish the following objectives:**

- 9 (1) **Protect and preserve Missouri's farmland;**
10 (2) **Link new generations of prospective farmers with present farmers; and**
11 (3) **Promote best practices in environmental, livestock, and land stewardship.**

12 **3. (1) There is hereby created within the department of agriculture the "Missouri
13 Farmland Trust Advisory Board" which shall be comprised of five members appointed by
14 the director of the department of agriculture. Members shall serve without compensation
15 but, subject to appropriations, may be reimbursed for actual and necessary expenses.**

16 **(2) The board shall make recommendations to the director on the appropriate uses
17 of farmland in the trust, criteria to be used to select applicants for the program, and review
18 and make recommendations regarding applications to lease farmland in the trust.**

19 **(3) Members shall serve five-year terms, with each term beginning July first and
20 ending June thirtieth; except that, of the members initially appointed two shall be**

21 appointed for a term of three years, two shall be appointed for a term of four years, and
22 one shall be appointed for a term of five years. Each member shall serve until his or her
23 successor is appointed. Any vacancies occurring prior to the expiration of a term shall be
24 filled by appointment for the remainder of such term. No member shall serve more than
25 two consecutive terms.

26 4. The department of agriculture is authorized to accept or acquire by purchase,
27 lease, donation, or agreement any agricultural lands, easements, real and personal
28 property, or rights in lands, easements, or real and personal property, including but not
29 limited to buildings, structures, improvements, equipment, or facilities subject to
30 preservation and improvement. Such lands shall be properties of the Missouri farmland
31 trust for purposes of this section and shall be governed by the provisions of this section and
32 rules promulgated thereunder.

33 5. (1) There is hereby created in the state treasury the "Missouri Farmland Trust
34 Fund", which shall consist of all gifts, bequests, donations, transfers, and moneys
35 appropriated by the general assembly under this section. The state treasurer shall be
36 custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer
37 may approve disbursements. Upon appropriation, money in the fund shall be used for the
38 administration of this section and may be used to make payments to counties for the value
39 of land as payment in lieu of real and personal property taxes for privately owned land
40 acquired after the effective date of this section in such amounts as determined by the
41 department; except that, the amount determined shall not be less than the real property
42 tax paid at the time of acquisition. The department of agriculture may require applicants
43 who are awarded leases to pay the property taxes owed under this section for such
44 property.

45 (2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys
46 remaining in the fund at the end of the biennium shall not revert to the credit of the
47 general revenue fund.

48 (3) The state treasurer shall invest moneys in the fund in the same manner as other
49 funds are invested. Any interest and moneys earned on such investments shall be credited
50 to the fund.

51 6. The department of agriculture is authorized to accept all moneys,
52 appropriations, gifts, bequests, donations, or other contributions of moneys or other real
53 or personal property to be expended or used for any of the purposes of this section. The
54 department may improve, maintain, operate, and regulate any such lands, easements, or
55 real or personal property to promote agriculture and the general welfare using moneys in
56 the fund. Property acquired by the department under this section shall be used for

57 agricultural purposes. The director shall establish by rule guidelines for leasing farmland
58 to the trust to beginning farmers for a period not to exceed twenty years. All property
59 acquired by the department under this section shall be farmed and maintained using the
60 best environmental, conservation, and stewardship practices as outlined by the
61 department. The department may charge an administrative fee for lease application
62 processing under this section.

63 7. The department, in consultation with the Missouri farmland advisory board,
64 shall promulgate rules to implement the provisions of this section, including but not limited
65 to requirements for lessees, selection process for granting leases, and the terms of the lease,
66 including requirements for applicants, renewal process, requirements for the maintenance
67 of real and personal property by the lessee, and conditions for the termination of leases.

68 8. Any person or entity donating land to or leasing land from the department shall
69 forever release the state of Missouri, the Missouri department of agriculture, the
70 department's director, officers, employees, volunteers, agents, contractors, servants, heirs,
71 successors, assigns, persons, firms, corporations, representatives, and other entities who
72 are or who will be acting in concert or privity with or on behalf of the state from any and
73 all actions, claims, or demands that he or she, family members, heirs, successors, assigns,
74 agents, servants, employees, distributees, guardians, next-of-kin, spouse, and legal
75 representatives now have or may have in the future for any injury, death, property damage
76 related to:

77 (1) Participation in such activities;

78 (2) The negligence, intentional acts, or other acts, whether directly connected to
79 such activities or not, and however caused; and

80 (3) The condition of the premises where such activities occur.

81 9. Any rule or portion of a rule, as that term is defined in section 536.010, that is
82 created under the authority delegated in this section shall become effective only if it
83 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
84 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
85 vested with the general assembly pursuant to chapter 536 to review, to delay the effective
86 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
87 grant of rulemaking authority and any rule proposed or adopted after August 28, 2011,
88 shall be invalid and void.

263.190. 1. [The plants musk thistle (*Carduus nutans* L.), Scotch thistle (*Onoprodum*
2 *acanthium* L.) and Canada thistle (*Cirsium arvense*) are hereby designated as noxious weeds.
3 All owners of land shall control all such plants growing upon their land] **As used in sections**
4 **263.190 to 263.474, "noxious weed" means any weed designated as noxious by rules**

5 **promulgated by the director of the department of agriculture. The department shall**
6 **maintain a list of such noxious weeds and shall make such list available to the public. The**
7 **department of agriculture shall promulgate rules necessary to implement the provisions**
8 **of this subsection. Any rule or portion of a rule, as that term is defined in section 536.010,**
9 **that is created under the authority delegated in this subsection shall become effective only**
10 **if it complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
11 **section 536.028. This subsection and chapter 536 are nonseverable and if any of the powers**
12 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
13 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
14 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2011,**
15 **shall be invalid and void.**

16 2. It shall be the duty of every owner of lands in this state, **including but not limited to**
17 **any person, association of persons, corporation, partnership, state highways and**
18 **transportation commission, state department, state agency, county commission, township**
19 **board, school board, drainage board, governing body of an incorporated city, railroad**
20 **company or other transportation company and such company's authorized agent, and any**
21 **person supervising state-owned lands** to control all [Canada, musk, or Scotch thistles] **noxious**
22 **weeds** growing thereon so often in each and every year as shall be sufficient to prevent [said
23 thistles] **such noxious weeds** from going to seed. If any owner of such land shall knowingly
24 allow any [Canada, musk, or Scotch thistles] **noxious weeds** to grow thereon, such owner shall
25 forfeit and pay the sum of one hundred dollars to the county commission for every such offense,
26 and such sum forfeited plus court costs may be recovered by civil action instituted by the
27 prosecuting attorney in the name of the county commission before any associate circuit judge of
28 the county in which the offense is committed. All sums recovered by virtue of this section shall
29 be paid to the use of the county control fund.

30 3. Before initiating any civil action under this section, the prosecuting attorney of the
31 county in which the land, or the greater part thereof, is located shall notify the owner of the land
32 of the requirements of this law, by certified mail, return receipt requested, from a list supplied
33 by the officer who prepares the tax list, and shall allow the owner of the land fifteen days from
34 acknowledgment date of return receipt, or date of refusal of acceptance, as the case may be, to
35 **initiate control of** all such plants growing upon [his] **the owner's** land. Failure of the owner to
36 **initiate control of** such plants within the fifteen-day period shall be prima facie evidence of the
37 owner's knowledge that [he] **the owner** is in violation of this law, and each fifteen days the
38 violation continues after the initial fifteen-day period shall, for the purpose of forfeiture and
39 penalty herein, be considered a separate offense.

40 **4. All sales of noxious weed species are prohibited.**

263.200. 1. In addition to the remedies provided in section 263.190, when [Canada, musk, or Scotch thistles] **noxious weeds** are discovered growing on any lands in the county, it shall be the duty of the county commission to control such [thistles] **noxious weeds** so as to prevent the seed from ripening, and for that purpose the county commission, or its agents, servants, or employees shall have authority to enter on such lands without being liable to an action of trespass therefor, and shall have such official immunity as exists at common law for any misfeasance or damages occurring in connection with the attempt to control [Canada, musk, or Scotch thistles] **noxious weeds**. Notwithstanding any provision of law to the contrary, the county shall be liable for any misfeasance or actual damages caused by its agents, servants, or employees in connection with the attempt to control [Canada, musk, or Scotch thistles] **noxious weeds**. The landowner shall owe no duty of care to such persons, except that which the landowner owes to trespassers. The county commission shall keep an accurate account of the expenses incurred in controlling the [thistles] **noxious weeds**, and shall verify such statement under seal of the county commission, and transmit the same to the officer whose duty it is or may be to extend state and county taxes on tax books or bills against real estate; and such officer shall extend the aggregate expenses so charged against each tract of land as a special tax, which shall then become a lien on the lands, and be collected as state and county taxes are collected by law and paid to the county commission and credited to the county control fund.

2. Before proceeding to control [Canada, musk, or Scotch thistles] **noxious weeds** as provided in this section, the county commission of the county in which the land, or the greater part thereof, is located shall notify the owner of the land of the requirements of this law, by certified mail, return receipt requested, from a list supplied by the officer who prepares the tax list, and shall allow the owner of the land fifteen days from acknowledgment date of return receipt, or date of refusal of acceptance of delivery, as the case may be, to control all such [plants] **noxious weeds** growing upon [his] **the owner's** land.

3. Any land or properties that are owned solely by a political subdivision in a city not within a county shall be subject to all provisions of sections 263.190, 263.200, and 263.240.

263.220. It shall be the duty of the prosecuting attorney of the county to prosecute all actions brought under [sections 263.190 to 263.240] **section 263.190**.

263.240. [Any person who shall violate any of the provisions of sections 263.210 to 263.240 shall, upon conviction, be guilty of] **A violation of section 263.190 is a misdemeanor**.

268.121. It shall be the duty of the director from time to time to [cause to be published in book form] **create** a list of all brands on record at [the time of the publication] **that time and make such list available to the public on a publicly-accessible website**. The [lists may be supplemented] **list shall be updated** from time to time. The [publication] **list** shall contain a facsimile of all brands recorded and the owner's name and post-office address. The records shall

6 be arranged in convenient form for reference. [It shall be the duty of the director to send one
7 copy of the brand book and supplements to the county recorder of deeds of each county and to
8 each licensed livestock market and slaughter plant in the state. The books and supplements shall
9 be furnished without cost to the livestock market or slaughter plant or to the county and shall be
10 kept as a matter of public record.] The [books and supplements] **list** may be sold to the general
11 public at the cost of **its** printing and mailing [each book].

2 276.401. 1. Sections 276.401 to 276.582 shall be known as the "Missouri Grain Dealer
3 Law".

4 2. The provisions of the Missouri grain dealer law shall apply to grain purchases where
5 title to the grain transfers from the seller to the buyer within the state of Missouri.

6 3. Unless otherwise specified by contractual agreement, title shall be deemed to pass to
7 the buyer as follows:

8 (1) On freight on board (FOB) origin or freight on board (FOB) basing point contracts,
9 title transfers at time and place of shipment;

10 (2) On delivered contracts, when and where constructively placed, or otherwise made
11 available at buyer's original destination;

12 (3) On contracts involving in-store commodities, at the storing warehouse and at the time
13 of contracting or transfer, and/or mailing of documents, if required, by certified mail, unless and
14 to the extent warehouse tariff, warehouse receipt and/or storage contract assumes the risk of loss
15 and/or damage.

16 4. As used in sections 276.401 to 276.582, unless the context otherwise requires, the
17 following terms mean:

18 (1) "Auditor", a person appointed under sections 276.401 to 276.582 by the director to
19 assist in the administration of sections 276.401 to 276.582, and whose duties include making
20 inspections, audits and investigations authorized under sections 276.401 to 276.582;

21 (2) "Authorized agent", any person who has the legal authority to act on behalf of, or for
22 the benefit of, another person;

23 (3) "Buyer", any person who buys or contracts to buy grain;

24 (4) "Certified public accountant", any person licensed as such under chapter 326;

25 (5) "Claimant", any person who requests payment for grain sold by him to a dealer, but
26 who does not receive payment because the purchasing dealer fails or refuses to make payment;

27 (6) "Credit sales contracts", a conditional grain sales contract wherein payment and/or
28 pricing of the grain is deferred to a later date. Credit sales contracts include, but are not limited
29 to, all contracts meeting the definition of deferred payment contracts, and/or delayed price
contracts;

30 (7) "Current assets", resources that are reasonably expected to be realized in cash, sold,
31 or consumed (prepaid items) within one year of the balance sheet date;

32 (8) "Current liabilities", obligations reasonably expected to be liquidated within one year
33 and the liquidation of which is expected to require the use of existing resources, properly
34 classified as current assets, or the creation of additional liabilities. Current liabilities include
35 obligations that, by their terms, are payable on demand unless the creditor has waived, in writing,
36 the right to demand payment within one year of the balance sheet date;

37 (9) "Deferred payment agreement", a conditional grain sales transaction establishing an
38 agreed upon price for the grain and delaying payment to an agreed upon later date or time period.
39 Ownership of the grain, and the right to sell it, transfers from seller to buyer so long as the
40 conditions specified in section 276.461 and section 411.325 are met;

41 (10) "Deferred pricing agreement", a conditional grain sales transaction wherein no price
42 has been established on the grain, the seller retains the right to price the grain later at a mutually
43 agreed upon method of price determination. Deferred pricing agreements include, but are not
44 limited to, contracts commonly known as no price established contracts, price later contracts, and
45 basis contracts on which the purchase price is not established at or before delivery of the grain.
46 Ownership of the grain, and the right to sell it, transfers from seller to buyer so long as the
47 conditions specified in section 276.461 and section 411.325 are met;

48 (11) "Delivery date" shall mean the date upon which the seller transfers physical
49 possession, or the right of physical possession, of the last unit of grain in any given transaction;

50 (12) "Department", the Missouri department of agriculture;

51 (13) "Designated representative", an employee or official of the department designated
52 by the director to assist in the administration of sections 276.401 to 276.582;

53 (14) "Director", the director of the Missouri department of agriculture or his designated
54 representative;

55 (15) "Generally accepted accounting principles", the conventions, rules and procedures
56 necessary to define accepted accounting practice, which include broad guidelines of general
57 application as well as detailed practices and procedures generally accepted by the accounting
58 profession, and which have substantial authoritative support from the American Institute of
59 Certified Public Accountants;

60 (16) "Grain", all grains for which the United States Department of Agriculture has
61 established standards under the United States Grain Standards Act, Sections 71 to 87, Title 7,
62 United States Code, and any other agricultural commodity or seed prescribed by the director by
63 regulation;

64 (17) "Grain dealer" or "dealer", any person engaged in the business of, or as a part of his
65 business participates in, buying grain where title to the grain transfers from the seller to the buyer

66 within the state of Missouri. "Grain dealer" or "dealer" shall not be construed to mean or
67 include:

68 (a) Any person or entity who is a member of a recognized board of trade or futures
69 exchange and whose trading in grain is limited solely to trading with other members of a
70 recognized board of trade or futures exchange; provided, that grain purchases from a licensed
71 warehouseman, farmer/producer or any other individual or entity in a manner other than through
72 the purchase of a grain futures contract on a recognized board of trade or futures exchange shall
73 be subject to sections 276.401 to 276.582. Exempted herein are all futures transactions;

74 (b) A producer or feeder of grain for livestock or poultry buying grain for his own
75 farming or feeding purposes who purchases grain exclusively from licensed grain dealers or
76 whose total grain purchases from producers during his or her fiscal year do not exceed [one
77 hundred thousand dollars] **fifty thousand bushels**;

78 (c) Any person or entity whose grain purchases in the state of Missouri are made
79 exclusively from licensed grain dealers;

80 (d) A manufacturer or processor of registered or unregistered feed whose total grain
81 purchases from producers during his or her fiscal year does not exceed one hundred thousand
82 dollars and who pays for all grain purchases from producers at the time of physical transfer of
83 the grain from the seller or his or her agent to the buyer or his or her agent and whose resale of
84 such grain is solely in the form of manufactured or processed feed or feed by-products or whole
85 feed grains to be used by the purchaser thereof as feed;

86 (18) "Grain transport vehicle", a truck, tractor-trailer unit, wagon, pup, or any other
87 vehicle or trailer used by a dealer, whether owned or leased by him, to transport grain which he
88 has purchased; except that, bulk or bagged feed delivery trucks which are used principally for
89 the purpose of hauling feed and any trucks for which the licensed gross weight does not exceed
90 twenty-four thousand pounds shall not be construed to be a grain transport vehicle;

91 (19) "Insolvent" or "insolvency", (a) an excess of liabilities over assets or (b) the inability
92 of a person to meet his financial obligations as they come due, or both (a) and (b);

93 (20) "Interested person", any person having a contractual or other financial interest in
94 grain sold to a dealer, licensed, or required to be licensed;

95 (21) "Location", any site other than the principal office where the grain dealer engages
96 in the business of purchasing grain;

97 (22) "Minimum price contract", a conditional grain sales transaction establishing an
98 agreed upon minimum price where the seller may participate in subsequent price gain, if any.
99 Ownership of the grain, and the right to sell it, transfers from the seller to the buyer so long as
100 the conditions specified in section 276.461 and section 411.325 are met;

101 (23) "Person", any individual, partnership, corporation, cooperative, society, association,
102 trustee, receiver, public body, political subdivision or any other legal or commercial entity of any
103 kind whatsoever, and any member, officer or employee thereof;

104 (24) "Producer", any owner, tenant or operator of land who has an interest in and
105 receives all or any part of the proceeds from the sale of grain or livestock produced thereon;

106 (25) "Purchase", to buy or contract to buy grain;

107 (26) "Sale", the passing of title from the seller to the buyer in consideration of the
108 payment or promise of payment of a certain price in money, or its equivalent;

109 (27) "Value", any consideration sufficient to support a simple contract.

276.421. 1. All applications shall be accompanied by a true and accurate financial
2 statement of the applicant, prepared within six months of the date of application, setting forth
3 all the assets, liabilities and net worth of the applicant. **In the event that the applicant has been**
4 **engaged in business as a grain dealer for at least one year, the financial statement shall set**
5 **forth the aggregate dollar amount paid for grain purchased in Missouri and those states**
6 **with whom Missouri has entered into contracts or agreements as authorized by section**
7 **276.566 during the last completed fiscal period of the applicant. In the event the applicant**
8 **has been engaged in business for less than one year or has not previously engaged in**
9 **business as a grain dealer, the financial statement shall set forth the estimated aggregate**
10 **dollar amount to be paid for grain purchased in Missouri and those states with whom**
11 **Missouri has entered into contracts or agreements as authorized by section 276.566 during**
12 **the applicant's initial fiscal period.** All applications shall also be accompanied by a true and
13 accurate statement of income and expenses for the applicant's most recently completed fiscal
14 year. The financial statements required by this chapter shall be prepared in conformity with
15 generally accepted accounting principles; except that, the director may promulgate rules allowing
16 for the valuation of assets by competent appraisal.

17 2. The financial statement required by subsection 1 of this section shall be audited or
18 reviewed by a certified public accountant. The financial statement may not be audited or
19 reviewed by the applicant, or an employee of the applicant, if an individual, or, if the applicant
20 is a corporation or partnership, by an officer, shareholder, partner, or a direct employee of the
21 applicant.

22 3. The director may require any additional information or verification with respect to the
23 financial resources of the applicant as he deems necessary for the effective administration of this
24 chapter. The director may promulgate rules setting forth minimum standards of acceptance for
25 the various types of financial statements filed in accordance with the provisions of this chapter.
26 The director may promulgate rules requiring a statement of retained earnings, a statement of
27 changes in financial position, and notes and disclosures to the financial statements for all

28 licensed grain dealers or all grain dealers required to be licensed. The additional information or
29 verification referred to herein may include, but is not limited to, requiring that the financial
30 statement information be reviewed or audited in accordance with standards established by the
31 American Institute of Certified Public Accountants.

32 4. All grain dealers shall provide the director with a copy of all financial statements and
33 updates to financial statements utilized to secure the bonds required by sections 276.401 to
34 276.582.

35 5. All financial statements submitted to the director for the purposes of this chapter shall
36 be accompanied by a certification by the applicant or the chief executive officer of the applicant,
37 subject to the penalty provision set forth in subsection 4 of section 276.536, that to the best of
38 his knowledge and belief the financial statement accurately reflects the financial condition of the
39 applicant for the fiscal period covered in the statement.

40 6. Any person who knowingly prepares or assists in the preparation of an inaccurate or
41 false financial statement which is submitted to the director for the purposes of this chapter, or
42 who during the course of providing bookkeeping services or in reviewing or auditing a financial
43 statement which is submitted to the director for the purposes of this chapter, becomes aware of
44 false information in the financial statement and does not disclose in notes accompanying the
45 financial statements that such false information exists, or does not disassociate himself from the
46 financial statements prior to submission, is guilty of a class C felony. Additionally, such persons
47 are liable for any damages incurred by sellers of grain selling to a grain dealer who is licensed
48 or allowed to maintain his license based upon inaccuracies or falsifications contained in the
49 financial statement.

50 7. [Except as set forth in section 276.511 which mandates higher requirements for class
51 I grain dealers,] Any licensed grain dealer or applicant for a grain dealer's license [who purchases
52 less than four hundred thousand dollars worth of grain, during the dealer's last completed fiscal
53 year, in the state of Missouri and those states with whom Missouri has entered into contracts or
54 agreements as authorized by section 276.566 must] **shall** maintain a minimum net worth equal
55 to [the greater of ten thousand dollars or] five percent of [such] **annual** grain purchases[. If grain
56 purchases during the dealer's last completed fiscal year are four hundred thousand dollars or
57 more, the dealer must maintain a net worth equal to the greater of twenty thousand dollars or one
58 percent of grain purchases] **as set forth in the financial statements required by this chapter.**
59 If the dealer or applicant is deficient in meeting this net worth requirement, he must post
60 additional bond as required in section 276.436.

61 **8. Any licensed grain dealer or applicant for a grain dealer's license shall have and**
62 **maintain current assets at least equal to one hundred percent of current liabilities. The**
63 **financial statement required by this chapter shall set forth positive working capital in the**

64 **form of a current ratio of the total adjusted current assets to the total adjusted current**
65 **liabilities of at least one to one.**

66 **(1) The director may allow applicants to offset negative working capital by**
67 **increasing the grain dealer surety bond required by section 276.426 up to the total amount**
68 **of negative working capital at the discretion of the director.**

69 **(2) Adjusted current assets shall be calculated by deducting from the stated current**
70 **assets shown on the financial statement submitted by the applicant any current asset**
71 **resulting from notes receivable from related persons, accounts receivable from related**
72 **persons, stock subscriptions receivable, and any other related person receivables.**

73 **(3) A disallowed current asset shall be netted against any related liability and the**
74 **net result, if an asset, shall be subtracted from the current assets.**

276.436. 1. The total amount of the surety bond required of a dealer licensed pursuant
2 to sections 276.401 to 276.582 shall be established by the director by rule, but in no event shall
3 such bond be less than [twenty] **fifty** thousand dollars nor more than [three] **six** hundred
4 thousand dollars, except as authorized by other provisions of sections 276.401 to 276.582.

5 2. The formula for determining the amount of bond shall be established by the director
6 by rule and shall be computed at a rate of no less than the principal amount to the nearest one
7 thousand dollars, equal to [not less than one percent and not more than five] **two** percent of the
8 aggregate dollar amount paid by the dealer for grain purchased in the state of Missouri and those
9 states with whom Missouri has entered into contracts or agreements as authorized by section
10 276.566 during the dealer's last completed fiscal year, or, in the case of a dealer who has been
11 engaged in business as a grain dealer for less than one year or who has not previously engaged
12 in such business, [not less than one percent and not more than five] **two** percent of the estimated
13 aggregate dollar amount to be paid by the dealer for grain purchased in the state of Missouri and
14 those states with whom Missouri has entered into contracts or agreements as authorized by
15 section 276.566 during the applicant's initial fiscal year.

16 3. Any licensed grain dealer or applicant who has, at any time, a net worth less than the
17 amount required by subsection 7 of section 276.421, shall be required to obtain a surety bond in
18 the amount of one thousand dollars for each one thousand dollars or fraction thereof of the net
19 worth deficiency. Failure to post such additional bond is grounds for refusal to license or the
20 suspension or revocation of a license issued under sections 276.401 to 276.582. This additional
21 bond can be in addition to or greater than or both in addition to and greater than the maximum
22 bond as set by this section.

23 4. The director may, when the question arises as to a grain dealer's ability to pay for grain
24 purchased, require a grain dealer to post an additional bond in a dollar amount deemed
25 appropriate by the director. Such additional bond can be in addition to or greater than or both

26 in addition to and greater than the maximum bond as set by this section. The director must
27 furnish to the dealer, by certified mail, a written statement of the reasons for requesting
28 additional bond and the reasons for questioning the dealer's ability to pay. Failure to post such
29 additional bond is a ground for modification, suspension or revocation by the director of a license
30 issued under sections 276.401 to 276.582. The determination of insufficiency of a bond and of
31 the amount of the additional bond shall be based upon evidence presented to the director that a
32 dealer:

33 (1) Is or may be unable to meet his dollar or grain obligations as they become due;
34 (2) Has acted or is acting in a way which might lead to the impairment of his capital;
35 (3) As a result of his activity, inactivity, or purchasing and pricing practices and
36 procedures, including, but not limited to, the dealer's deferred pricing or deferred payment
37 practices and procedures, is or may be unable to honor his grain purchase obligations arising out
38 of his dealer business. The amount of the additional bond required under this subsection shall
39 not exceed the amount of the dealer's current loss position. Current loss position shall be the
40 sum of the dealer's current liabilities less current assets or the amount by which he is currently
41 unable to meet the grain purchase obligations arising out of his dealer business.

42 5. One bond, cumulative as to minimum requirements, may be given where a dealer has
43 multiple licenses; except however, that in computing the amount of the single bond the grain
44 dealer may add together the total purchases of grain of all locations to be covered thereby and
45 use the aggregate total purchases for the fiscal year for the purpose of computing bond.
46 However, this single cumulative bond must be at least equal to [twenty] **fifty** thousand dollars
47 per dealer license issued up to the [three] **six** hundred thousand dollar maximum bond amount
48 specified in subsection 1 of this section. When a grain dealer elects to provide a single bond for
49 a number of licensed locations, the total assets of all the licensed locations shall be subject to
50 liabilities of each individual licensed location.

51 6. Failure of a grain dealer to provide and file a bond and financial statement and to keep
52 such bond in force shall be grounds for the suspension or revocation, by the director, of a license
53 issued under sections 276.401 to 276.582.

54 7. A dealer shall be required to post additional surety bond when he surpasses the
55 estimated aggregate dollar amount to be paid for grain purchased as set forth in subsection 2 of
56 this section. Such additional bond shall be determined by the director so as to effectively protect
57 sellers of grain dealing with such dealer.

276.441. 1. Any grain dealer who is of the opinion that his net worth is sufficient to
2 guarantee payment for grain purchased by him may make a formal, written request to the director
3 that he be relieved of the obligation of filing a bond in excess of the minimum bond of [twenty]
4 **fifty** thousand dollars. Such request shall be accompanied by a financial statement of the

5 applicant, prepared within four months of the date of such request and accompanied by such
6 additional information concerning the applicant and his finances as the director may require
7 which may include the request for submission of a financial statement audited by a public
8 accountant.

9 2. If such financial statement discloses a net worth equal to at least five times the amount
10 of the bond otherwise required by sections 276.401 to 276.582, and the director is otherwise
11 satisfied as to the financial ability and resources of the applicant, the director may waive that
12 portion of the required bond in excess of [twenty] **fifty** thousand dollars for each license issued.

411.280. Every warehouseman licensed under the provisions of this chapter shall have
2 and maintain a net worth equal to the greater of ten thousand dollars or the amount which results
3 from multiplying the storage capacity of the warehouse by [fifteen] **twenty-five** cents per bushel.
4 Capital stock, for the purpose of determining the net worth, shall not be considered a liability.
5 Any deficiency in required net worth above the ten thousand dollar minimum requirement may
6 be met by supplying additional bond in an amount equal to one thousand dollars for each one
7 thousand dollars or fraction thereof of deficiency.

**442.014. 1. This act shall be known and may be cited as the "Private Landowner
2 Protection Act".**

3 **2. As used in this section, unless the context otherwise requires, the following terms
4 mean:**

5 **(1) "Conservation easement", a nonpossessory interest of a holder in real property
6 imposing limitations or affirmative obligations the purposes of which include retaining or
7 protecting natural, scenic, or open-space values of real property, assuring its availability
8 for agricultural, forest, recreational, or open-space use, protecting natural resources,
9 maintaining or enhancing air or water quality, or preserving the historical, architectural,
10 archaeological, or cultural aspects of real property;**

11 **(2) "Holder", any of the following:**

12 **(a) A governmental body empowered to hold an interest in real property under the
13 laws of this state or the United States;**

14 **(b) A charitable corporation, charitable association, or charitable trust, the
15 purposes, powers, or intent of which include retaining or protecting the natural, scenic, or
16 open-space values of real property, assuring the availability of real property for
17 agricultural, forest, recreational, or open-space use, protecting natural resources,
18 maintaining or enhancing air or water quality, or preserving the historical, architectural,
19 archaeological, or cultural aspects of real property; or**

20 **(c) An individual or other private entity;**

21 **(3) "Third-party right of enforcement", a right expressly provided in a**
22 **conservation easement to enforce any of its items granted to a designated governmental**
23 **body, charitable corporation, charitable association, charitable trust, individual, or any**
24 **other private entity which, although eligible to be a holder, is not a holder.**

25 **3. (1) Except as otherwise provided in this section, a conservation easement may**
26 **be created, conveyed, recorded, assigned, released, modified, terminated, or otherwise**
27 **altered or affected in the same manner as other easements. No right or duty in favor of or**
28 **against a holder and no right in favor of a person having a third-party right of**
29 **enforcement arises under a conservation easement before its acceptance by the holder and**
30 **a recordation of the acceptance. Except as provided in subdivision (2) of this subsection,**
31 **a conservation easement is unlimited in duration unless the instrument creating it provides**
32 **otherwise.**

33 **(2) An interest in real property in existence at the time a conservation easement is**
34 **created is not impaired by it unless the owner of the interest is a party to the conservation**
35 **easement or consents to it.**

36 **4. (1) An action affecting a conservation easement may be brought by an owner of**
37 **an interest in real property burdened by the easement; a holder of the easement, a person**
38 **having a third-party right of enforcement; or a person authorized by other law.**

39 **(2) This section does not affect the power of a court to modify or terminate a**
40 **conservation easement in accordance with the principles of law and equity.**

41 **5. A conservation easement is valid even though:**

42 **(1) It is not appurtenant to an interest in real property;**

43 **(2) It can be or has been assigned to another holder;**

44 **(3) It is not of a character that has been recognized traditionally at common law;**

45 **(4) It imposes a negative burden that would prevent a landowner from performing**
46 **acts on the land he or she would otherwise be privileged to perform absent the agreed-upon**
47 **easement;**

48 **(5) It imposes affirmative obligations upon the owner of an interest in the burdened**
49 **property or upon the holder;**

50 **(6) The benefit does not touch or concern real property; or**

51 **(7) There is no privity of estate or of contract.**

52 **6. Nothing in this section shall affect the ability of any public utility, municipal**
53 **utility, joint municipal utility commission, rural electric cooperative, telephone cooperative,**
54 **or public water supply district to acquire an easement, either through negotiation with an**
55 **owner of an interest in real property or by condemnation, to lay or construct plants or**

56 facilities for the transmission or distribution of electricity, natural gas, telecommunications
57 service, water, or the carriage of sewage along or across a conservation easement.

58 **7. This section applies to any interest created after its effective date which complies**
59 **with this section, whether designated as a conservation easement or as a covenant,**
60 **equitable servitude, restriction, easement, or otherwise. This section applies to any interest**
61 **created before its effective date if it would have been enforceable had it been created after**
62 **its effective date unless retroactive application contravenes the constitution or laws of this**
63 **state or the United States. This section does not alter the terms of any interest created**
64 **before its effective date, or impose any additional burden or obligation on any grantor or**
65 **grantee of such interest, or on their successors or assigns. This section does not invalidate**
66 **any interest, whether designated as a conservation or preservation easement or as a**
67 **covenant, equitable servitude, restriction, easement, or otherwise, that is enforceable under**
68 **other laws of this state.**

2 [263.205. 1. The plant multiflora rose (*rosa multiflora*) is hereby
3 declared to be a noxious weed; except, notwithstanding any other provision of
4 this section, multiflora rose (*rosa multiflora*) shall not be considered a noxious
5 weed when cultivated for or used as understock for cultivated roses.

6 2. The governing body of any county of this state may opt to establish a
7 "County Noxious Weed Fund" for the purpose of making grants on a cost share
8 basis for the control of any noxious weed, as the plant may be designated under
9 this section.

10 3. Any county opting to establish a county noxious weed fund, shall
11 establish a noxious weed control program. No resident or owner of land of any
12 county shall be required to participate in a county noxious weed control program;
13 however, any resident or landowner making application for cost share grants
14 under this section shall participate in said program.

15 4. For the purpose of administering the county noxious weed fund, the
16 county governing body shall have sole discretion of awarding cost share grants
17 under this section.

18 5. For the purpose of funding the county noxious weed fund, the county
19 governing body may appropriate county funds, and/or solicit municipality, state
20 agency, state general revenue, and federal agency funds. All such funds shall be
21 deposited in the county noxious weed fund to be expended for the sole purpose
22 of controlling noxious weeds so designated under this section.

23 6. Any county opting to establish a county noxious weed control program
24 under this section may make rules and regulations governing said program, and
25 any county opting to establish a county noxious weed fund under this section
26 shall establish a cost share ratio on an annual basis beginning with the creation
27 of the fund.]

2 [263.230. It shall be the duty of any person or persons, association of
3 persons, corporations, partnerships, the state highways and transportation
4 commission, the county commissions, the township boards, school boards,
5 drainage boards, the governing bodies of incorporated cities, railroad companies
6 and other transportation companies or their authorized agents and those
7 supervising state-owned lands to control the spread of and to eradicate by
8 methods approved by the state department of agriculture field bindweed
9 (convolvulus arvensis) hereby designated as a noxious and dangerous weed to
10 agriculture.]

2 [263.232. It shall be the duty of any person or persons, association of
3 persons, corporations, partnerships, the state highways and transportation
4 commission, any state department, any state agency, the county commissions, the
5 township boards, school boards, drainage boards, the governing bodies of
6 incorporated cities, railroad companies and other transportation companies or
7 their authorized agents and those supervising state-owned lands:

8 (1) To control and eradicate the spread of cut-leaved teasel (*Dipsacus*
9 *laciniatus*) and common teasel (*Dipsacus fullonum*), which are hereby designated
10 as noxious and dangerous weeds to agriculture, by methods in compliance with
11 the manufacturer's label instructions when chemical herbicides are used for such
12 purposes;

13 (2) To control the spread of kudzu vine (*Pueraria lobata*), which is hereby
14 designated as a noxious and dangerous weed to agriculture, by methods in
15 compliance and conformity with the manufacturer's label instructions when
16 chemical herbicides are used for such purposes; and

17 (3) To control the spread of spotted knapweed (*Centaurea stoebe* ssp.
18 *micranthos*, including all subspecies), which is hereby designated as a noxious
19 and dangerous weed to agriculture, by methods in compliance and conformity
20 with the manufacturer's label instructions when chemical herbicides are used for
21 such purposes.]

2 [263.241. The plant, purple loosestrife (*Lythrum salicaria*), and any
3 hybrids thereof, is hereby designated a noxious weed. No person shall buy, sell,
4 offer for sale, distribute or plant seeds, plants or parts of plants of purple
5 loosestrife without a permit issued by the Missouri department of conservation.
6 Such permits shall be issued only for experiments to control and eliminate
7 nuisance weeds. Any person who violates the provisions of this section shall be
8 guilty of a class A misdemeanor.]

2 [263.450. As used in sections 263.450 to 263.474, the term "noxious
3 weed" includes bindweed (*Convolvulus arvensis*), Johnson grass (*Sorghum*
4 *halepense*), multiflora rose (*Rosa multiflora*) except when cultivated for or used
as understock for cultivated roses, Canada thistle (*Cirsium arvense*), musk thistle

5 (Carduus nutans L.), Scotch thistle (Onoprodum acanthium L.), purple loosestrife
6 (Lythrum salicaria), and any other weed designated as noxious by rules and
7 regulations promulgated by the director of the department of agriculture.]
8

2 [276.416. In the event that the applicant has been engaged in business as
3 a grain dealer for at least one year, the application shall set forth the aggregate
4 dollar amount paid for grain purchased in Missouri and those states with whom
5 Missouri has entered into contracts or agreements as authorized by section
6 276.566 during the last completed fiscal period of the applicant. In the event the
7 applicant has been engaged in business for less than one year or has not
8 previously engaged in business as a grain dealer, the application shall set forth the
9 estimated aggregate dollar amount to be paid for grain purchased in Missouri and
10 those states with whom Missouri has entered into contracts or agreements as
11 authorized by section 276.566 during the applicant's initial fiscal period.]

2 [276.446. Any grain dealer whose total purchases of grain within
3 Missouri and those states with whom Missouri has entered into contracts or
4 agreements as authorized by section 276.566 during any fiscal year, do not
5 exceed an aggregate dollar amount of four hundred thousand dollars may satisfy
6 the bonding requirements of sections 276.401 to 276.581 by filing with the
7 director a bond at the rate of one thousand dollars for each twenty thousand
8 dollars or fraction thereof of the dollar amount to be purchased, with a minimum
bond of ten thousand dollars required.]

✓