

SENATE SUBSTITUTE  
FOR  
SENATE COMMITTEE SUBSTITUTE  
FOR  
HOUSE COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 45

AN ACT

To repeal section 1.310, RSMo, and to enact in lieu thereof two new sections relating to small businesses.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
AS FOLLOWS:

1           Section A. Section 1.310, RSMo, is repealed and two new  
2 sections enacted in lieu thereof, to be known as sections 1.310  
3 and 143.173, to read as follows:

4           1.310. 1. This section shall be known and may be cited as  
5 the "Big Government Get Off My Back Act".

6           2. Any federal mandate compelling the state to enact,  
7 enforce, or administer a federal regulatory program shall be  
8 subject to authorization through appropriation or statutory  
9 enactment.

10          3. No user fees imposed by the state of Missouri shall  
11 increase for the [four-year] five-year period beginning on August  
12 28, 2009, unless such fee increase is to implement a federal  
13 program administered by the state or is a result of an act of the  
14 general assembly. For purposes of this section, "user fee" does

1 not include employer taxes or contributions, assessments to  
2 offset the cost of examining insurance or financial institutions,  
3 any health-related taxes approved by the Center for Medicare and  
4 Medicaid Services, or any professional or occupational licensing  
5 fees set by a board of members of that profession or occupation  
6 and required by statute to be set at a level not to exceed the  
7 cost of administration.

8 [3.] 4. For the [~~four-year~~] five-year period beginning on  
9 August 28, 2009, any state agency proposing a rule as that term  
10 is defined in subdivision (6) of section 536.010, other than any  
11 rule promulgated as a result of a federal mandate, or to  
12 implement a federal program administered by the state or an act  
13 of the general assembly, shall either:

14 (1) Certify that the rule does not have an adverse impact  
15 on small businesses consisting of fewer than [~~twenty-five~~] fifty  
16 full- or part-time employees; or

17 (2) Certify that the rule is necessary to protect the life,  
18 health or safety of the public; or

19 (3) Exempt any small business consisting of fewer than  
20 [~~twenty-five~~] fifty full- or part-time employees from coverage.

21 [4.] 5. The provisions of this section shall not be  
22 construed to prevent or otherwise restrict an agency from  
23 promulgating emergency rules pursuant to section 536.025, or from  
24 rescinding any existing rule pursuant to section 536.021.

25 143.173. 1. As used in this section, the following terms  
26 mean:

27 (1) "County average wage", the average wages in each county  
28 as determined by the department of economic development for the

1 most recently completed full calendar year. However, if the  
2 computed county average wage is above the statewide average wage,  
3 the statewide average wage shall be deemed the county average  
4 wage for such county for the purpose of this section;

5 (2) "Deduction", an amount subtracted from the taxpayer's  
6 Missouri adjusted gross income to determine Missouri taxable  
7 income, or federal taxable income in the case of a corporation,  
8 for the tax year in which such deduction is claimed;

9 (3) "Full-time employee", a position in which the employee  
10 is considered full-time by the taxpayer and is required to work  
11 an average of at least thirty-five hours per week for a twenty-  
12 six week period. Any taxpayer wishing to receive the deduction  
13 for an employee, but whose employee's hours per week did not meet  
14 the thirty-five hours per week requirement because of weather-  
15 related delays, may still receive the deduction, but shall  
16 document the cause of the delay and the date upon which it  
17 occurred, and the employee for whom the deduction is sought shall  
18 have worked an equivalent of nine hundred twenty-one hours within  
19 a thirty-two-week period;

20 (4) "New job", the number of full-time employees employed  
21 by the small business in Missouri on the qualifying date that  
22 exceeds the average number of full-time employees employed by the  
23 small business in Missouri on the same date of the immediately  
24 preceding taxable year;

25 (5) "Qualifying date", any date during the tax year as  
26 chosen by the small business;

27 (6) "Small business", any small business consisting of  
28 fewer than fifty full or part-time employees;

1 (7) "Taxpayer", any small business subject to the income  
2 tax imposed in this chapter.

3 2. In addition to all deductions listed in this chapter,  
4 for all taxable years beginning on or after January 1, 2011, and  
5 ending on or before December 31, 2014, a taxpayer shall be  
6 allowed a deduction for each new job created by the small  
7 business in the taxable year. The deduction amount shall be as  
8 follows:

9 (1) Ten thousand dollars for each new job created with an  
10 annual salary of at least the county average wage; or

11 (2) Twenty thousand dollars for each new job created with  
12 an annual salary of at least the county average wage if the small  
13 business offers health insurance and pays at least fifty percent  
14 of such insurance premiums.

15 3. The department of revenue shall establish the procedure  
16 by which the deduction provided in this section may be claimed,  
17 and may promulgate rules to implement the provisions of this  
18 section. Any rule or portion of a rule, as that term is defined  
19 in section 536.010, that is created under the authority delegated  
20 in this section shall become effective only if it complies with  
21 and is subject to all of the provisions of chapter 536 and, if  
22 applicable, section 536.028. This section and chapter 536 are  
23 nonseverable and if any of the powers vested with the general  
24 assembly under chapter 536 to review, to delay the effective  
25 date, or to disapprove and annul a rule are subsequently held  
26 unconstitutional, then the grant of rulemaking authority and any  
27 rule proposed or adopted after August 28, 2011, shall be invalid  
28 and void.

1       4. Under section 23.253 of the Missouri sunset act:

2       (1) The provisions of the new program authorized under this  
3 section shall automatically sunset on December thirty-first three  
4 years after the effective date of this section unless  
5 reauthorized by an act of the general assembly; and

6       (2) If such program is reauthorized, the program authorized  
7 under this section shall automatically sunset on December thirty-  
8 first three years after the effective date of the reauthorization  
9 of this section; and

10       (3) This section shall terminate on September first of the  
11 calendar year immediately following the calendar year in which  
12 the program authorized under this section is sunset.