

SENATE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1073

AND

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1477

AN ACT

To repeal sections 142.031, 178.530, 256.400, 270.270, 270.400, and 276.401, RSMo, and to enact in lieu thereof eight new sections relating to agriculture, with an existing penalty provision.

---

---

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

1           Section A. Sections 142.031, 178.530, 256.400, 270.270,  
2           270.400, and 276.401, RSMo, are repealed and eight new sections  
3           enacted in lieu thereof, to be known as sections 142.031,  
4           178.530, 256.400, 256.433, 262.795, 270.270, 270.400, and  
5           276.401, to read as follows:

6           142.031. 1. As used in this section the following terms  
7           shall mean:

8           (1) "Biodiesel", fuel as defined in ASTM Standard D-6751 or  
9           its subsequent standard specifications for biodiesel fuel (B100)  
10          blend stock for distillate fuels;

11          (2) "Missouri qualified biodiesel producer", a facility  
12          that produces biodiesel, is registered with the United States  
13          Environmental Protection Agency according to the requirements of

1 40 CFR 79, and:

2 (a) a. Is at least fifty-one percent owned by agricultural  
3 producers who are residents of this state and who are actively  
4 engaged in agricultural production for commercial purposes; or

5 b. At least eighty percent of the feedstock used by the  
6 facility originates in the state of Missouri. For purposes of  
7 this section, "feedstock" means an agricultural, horticultural,  
8 viticultural, vegetable, aquacultural, livestock, forestry, or  
9 poultry product either in its natural or processed state; and

10 (b) Meets all of the following:

11 a. Has registered with the department of agriculture by  
12 September 1, 2007;

13 b. Has begun construction of the facility before November  
14 1, 2007; and

15 c. Has begun production of biodiesel before March 1, 2009.

16 2. The "Missouri Qualified Biodiesel Producer Incentive  
17 Fund" is hereby created and subject to appropriations shall be  
18 used to provide economic subsidies to Missouri qualified  
19 biodiesel producers pursuant to this section.

20 The director of the department of agriculture shall administer  
21 the fund pursuant to this section.

22 3. A Missouri qualified biodiesel producer shall be  
23 eligible for a monthly grant from the fund provided that one  
24 hundred percent of the feedstock originates in the United States.  
25 However, the director may waive the feedstock requirements on a  
26 month-to-month basis if the facility provides verification that  
27 adequate feedstock is not available. A Missouri qualified  
28 biodiesel producer shall only be eligible for the grant for a

1 total of sixty months unless such producers during the sixty  
2 months fail, due to a lack of appropriations, to receive the full  
3 amount from the fund for which the producers were eligible, in  
4 which case such producers shall continue to be eligible [for up  
5 to twenty-four additional months or] until they have received the  
6 maximum amount of funding for which such producers were eligible  
7 during the original sixty-month time period. The amount of the  
8 grant is determined by calculating the estimated gallons of  
9 qualified biodiesel produced during the preceding month from  
10 feedstock, as certified by the department of agriculture, and  
11 applying such figure to the per-gallon incentive credit  
12 established in this subsection. Each Missouri qualified  
13 biodiesel producer shall be eligible for a total grant in any  
14 fiscal year equal to thirty cents per gallon for the first  
15 fifteen million gallons of qualified biodiesel produced from  
16 feedstock in the fiscal year plus ten cents per gallon for the  
17 next fifteen million gallons of qualified biodiesel produced from  
18 feedstock in the fiscal year. All such qualified biodiesel  
19 produced by a Missouri qualified biodiesel producer in excess of  
20 thirty million gallons shall not be applied to the computation of  
21 a grant pursuant to this subsection. The department of  
22 agriculture shall pay all grants for a particular month by the  
23 fifteenth day after receipt and approval of the application  
24 described in subsection 4 of this section.

25 4. In order for a Missouri qualified biodiesel producer to  
26 obtain a grant from the fund, an application for such funds shall  
27 be received no later than fifteen days following the last day of  
28 the month for which the grant is sought. The application shall

1 include:

2 (1) The location of the Missouri qualified biodiesel  
3 producer;

4 (2) The average number of citizens of Missouri employed by  
5 the Missouri qualified biodiesel producer in the preceding month,  
6 if applicable;

7 (3) The number of bushel equivalents of Missouri feedstock  
8 and out-of-state feedstock used by the Missouri qualified  
9 biodiesel producer in the production of biodiesel in the  
10 preceding month;

11 (4) The number of gallons of qualified biodiesel the  
12 producer manufactures during the month for which the grant is  
13 applied;

14 (5) A copy of the qualified biodiesel producer license  
15 required pursuant to subsection 5 of this section, name and  
16 address of surety company, and amount of bond to be posted  
17 pursuant to subsection 5 of this section; and

18 (6) Any other information deemed necessary by the  
19 department of agriculture to adequately ensure that such grants  
20 shall be made only to Missouri qualified biodiesel producers.

21 5. The director of the department of agriculture, in  
22 consultation with the department of revenue, shall promulgate  
23 rules and regulations necessary for the administration of the  
24 provisions of this section.

25 6. Any rule or portion of a rule, as that term is defined  
26 in section 536.010, that is created under the authority delegated  
27 in this section shall become effective only if it complies with  
28 and is subject to all of the provisions of chapter 536 and, if

1 applicable, section 536.028. This section and chapter 536 are  
2 nonseverable and if any of the powers vested with the general  
3 assembly pursuant to chapter 536 to review, to delay the  
4 effective date or to disapprove and annul a rule are subsequently  
5 held unconstitutional, then the grant of rulemaking authority and  
6 any rule proposed or adopted after August 28, 2002, shall be  
7 invalid and void.

8 7. This section shall expire on December 31, 2009. However,  
9 Missouri qualified biodiesel producers receiving any grants  
10 awarded prior to December 31, 2009, shall continue to be eligible  
11 for the remainder of the original sixty-month time period under  
12 the same terms and conditions of this section unless such  
13 producer during such sixty months failed, due to a lack of  
14 appropriations, to receive the full amount from the fund for  
15 which he or she was eligible. In such case, such producers shall  
16 continue to be eligible [for up to twenty-four additional months  
17 or] until they have received the maximum amount of funding for  
18 which they were eligible during the original sixty-month time  
19 period.

20 8. Any Missouri qualified biodiesel producer who receives  
21 any grant payments under this section who subsequently sells the  
22 biodiesel facility shall be subject to the following payback  
23 requirements:

24 (1) If such facility is sold within less than one year of  
25 the date of issuance of the last grant payment, the Missouri  
26 qualified biodiesel producer shall pay the state the amount of  
27 fifty percent of the total amount of grant payments received  
28 under this section;

1           (2) If such facility is sold within one to two years of the  
2 date of issuance of the last grant payment, the Missouri  
3 qualified biodiesel producer shall pay the state the amount of  
4 forty percent of the total amount of grant payments received  
5 under this section;

6           (3) If such facility is sold within two to three years of  
7 the date of issuance of the last grant payment, the Missouri  
8 qualified biodiesel producer shall pay the state the amount of  
9 thirty percent of the total amount of grant payments received  
10 under this section;

11           (4) If such facility is sold within three to four years of  
12 the date of issuance of the last grant payment, the Missouri  
13 qualified biodiesel producer shall pay the state the amount of  
14 twenty percent of the total amount of grant payments received  
15 under this section;

16           (5) If such facility is sold within four to five years of  
17 the date of issuance of the last grant payment, the Missouri  
18 qualified biodiesel producer shall pay the state the amount of  
19 ten percent of the total amount of grant payments received under  
20 this section. If the sale date of the facility falls on a date  
21 that qualifies under more than one subdivision of this  
22 subsection, the greater payback amount shall apply. For purposes  
23 of this subsection, a facility shall be considered "sold" when  
24 there is a change in at least fifty-one percent of the facility's  
25 ownership in a transaction that involves a buyer or buyers and a  
26 seller or sellers.

27           178.530. 1. The state board of education shall establish  
28 standards and annually inspect, as a basis for approval, all

1 public prevocational, vocational schools, Linn State Technical  
2 College, departments and classes receiving state or federal  
3 moneys for giving training in agriculture, industrial, home  
4 economics and commercial subjects and all schools, departments  
5 and classes receiving state or federal moneys for the preparation  
6 of teachers and supervisors of such subjects. The public  
7 prevocational and vocational schools, Linn State Technical  
8 College, departments, and classes, and the training schools,  
9 departments and classes are entitled to the state or federal  
10 moneys so long as they are approved by the state board of  
11 education, as to site, plant, equipment, qualifications of  
12 teachers, admission of pupils, courses of study and methods of  
13 instruction. All disbursements of state or federal moneys for  
14 the benefit of the approved prevocational and vocational schools,  
15 Linn State Technical College, departments and classes shall be  
16 made semiannually. The school board of each approved school or  
17 the governing body of Linn State Technical College shall file a  
18 report with the state board of education at the times and in the  
19 form that the state board requires. Upon receipt of a  
20 satisfactory report, the state board of education shall certify  
21 to the commissioner of administration for his approval the amount  
22 of the state and federal moneys due the school district or Linn  
23 State Technical College. The amount due the school district  
24 shall be certified by the commissioner of administration and  
25 proper warrant therefor shall be issued to the district treasurer  
26 or Linn State Technical College.

27 2. Notwithstanding the provisions of subsection 1 of this  
28 section, the state board of education shall establish standards

1 for agricultural education that may be adopted by a private  
2 school accredited by an agency recognized by the United States  
3 Department of Education as an accreditor of private schools that  
4 wishes to provide quality vocational programming outside the  
5 requirements of, but consistent with, the federal vocational  
6 education act. Such standards shall be sufficient to qualify a  
7 private school to apply to the state chapter for approval of a  
8 local chapter of a federally chartered national agricultural  
9 education association on a form developed for that purpose by the  
10 department of elementary and secondary education without  
11 eligibility to receive state or federal funding for agricultural  
12 vocational education. Any such private school shall reimburse  
13 the department annually for the cost of oversight and maintenance  
14 of the program.

15 256.400. As used in sections 71.287 and 256.400 to  
16 [256.430] 256.433, unless the context clearly indicates  
17 otherwise, the following terms mean:

- 18 (1) "Department", the department of natural resources;
- 19 (2) "Director", the director of the department of natural  
20 resources;
- 21 (3) "Division", the division of geology and land survey of  
22 the department of natural resources;
- 23 (4) "Major water user", any person, firm, corporation or  
24 the state of Missouri, its agencies or corporations and any other  
25 political subdivision of this state, their agencies or  
26 corporations, with a water source and equipment necessary to  
27 withdraw or divert one hundred thousand gallons or more per day  
28 from any stream, river, lake, well, spring or other water source;

1 (5) "State geologist", the director of the division of  
2 geology and land survey of the department of natural resources;

3 (6) "Water source", any stream, river, lake, well, spring  
4 or other water source.

5 256.433. Notwithstanding any provision of law to the  
6 contrary, no major water user shall convey water withdrawn or  
7 diverted from within the Southeast Missouri Regional Water  
8 District created under section 256.643 when such withdrawal or  
9 diversion and subsequent conveyance to a location outside such  
10 district unduly interferes with the reasonable and customary  
11 activities of a major water user registered under section 256.410  
12 located within such district. If such conveyance occurs, the  
13 attorney general or the party or parties affected may file an  
14 action for an injunction, however, in no case shall an injunction  
15 be issued if the injunction would be detrimental to public health  
16 or safety.

17 262.795. Any law to the contrary notwithstanding, a child,  
18 as defined in subdivision (1) of section 294.011, may perform  
19 agriculture work, as defined in subdivision (1) of section  
20 290.500, on a farm owned and operated by the child's parent,  
21 sibling, grandparent or sibling of a parent or, if performed by  
22 the child with the knowledge and consent of the child's parent,  
23 on any family farm, as defined in subdivision (4) of section  
24 350.010, or on any family farm corporation, as defined in  
25 subdivision (5) of section 350.010, including work that would  
26 otherwise be prohibited by subdivisions (1), (2), (3), (7), and  
27 (12) of section 294.040; but no such child shall be permitted to  
28 engage in any other activities prohibited by section 294.040.

1 The term "parent", as used in this section, shall have the same  
2 meaning as in subdivision (8) of section 294.011. Children  
3 engaged in work permitted by this section may do so without  
4 obtaining a work certificate as required by section 294.024.  
5 Children engaged in work permitted by this section are not  
6 subject to the limitations set out in section 294.030 and  
7 subsection 4 of section 294.045.

8       270.270. 1. Any person possessing or transporting live  
9 Russian or [European wild boar] Eurasian swine or wild-caught  
10 swine on or through public land without a Missouri department of  
11 agriculture permit is guilty of a class A misdemeanor. Each  
12 violation of this subsection shall be a separate offense.

13       2. Any law enforcement officer, any agent of the  
14 conservation commission, or the state veterinarian is authorized  
15 to enforce the provisions of this section, section 270.260, and  
16 section 270.400.

17       270.400. 1. For purposes of this section, the term "feral  
18 hog" means any hog, including Russian and [European wild boar]  
19 Eurasian swine, that is not conspicuously identified by ear tags  
20 or other forms of identification and is roaming freely upon  
21 public or private lands without the landowner's permission.

22       2. A person may kill a feral hog roaming freely upon such  
23 person's land and shall not be liable to the owner of the hog for  
24 the loss of the hog.

25       3. Any person may take or kill a feral hog on public land  
26 or private land with the consent of the landowner; except that,  
27 during the firearms deer and turkey hunting season the  
28 regulations of the Missouri wildlife code shall apply. Such

1 person shall not be liable to the owner of the hog for the loss  
2 of such hog.

3 4. No person except a landowner or such landowner's agent  
4 on such landowner's property shall take, attempt to take, or kill  
5 a feral hog with the use of an artificial light.

6 5. The director of the department of agriculture shall  
7 promulgate rules for fencing and health standards for Russian and  
8 [European wild boar] Eurasian swine and wild-caught swine held  
9 alive on private land. Any person holding Russian or [European  
10 wild boar] Eurasian swine or wild-caught swine on private land  
11 shall annually submit an application to the department for a  
12 permit. Any applicant that successfully meets the requirements  
13 under this section as determined by the department and pays an  
14 application fee shall be issued a permit.

15 6. Russian and [European wild boar] Eurasian swine and  
16 wild-caught swine may move only from a farm to a farm or directly  
17 to slaughter or to a slaughter-only market. The department shall  
18 promulgate rules for exemption permits and a fee structure to  
19 offset the actual and necessary costs incurred to enforce the  
20 provisions of this section.

21 7. (1) There is hereby created in the state treasury the  
22 "Animal Health Fund", which shall consist of all fees and  
23 administrative penalties collected by the department of  
24 agriculture under this section and section 270.260. The state  
25 treasurer shall be custodian of the fund. In accordance with  
26 sections 30.170 and 30.180, the state treasurer may approve  
27 disbursements. Upon appropriation, moneys in the fund shall be  
28 used for the administration of this section and section 270.260.

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

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

8           8. Any person who violates subsection 2 of section 270.260  
9 may, in addition to the penalty imposed under section 270.260, be  
10 assessed an administrative penalty of up to one thousand dollars  
11 per violation. Any person who is assessed an administrative  
12 penalty under this section shall be notified in writing of the  
13 right to appeal. Such person may request a hearing before the  
14 director of the department of agriculture. Such request shall be  
15 made in writing no later than thirty days after the date on which  
16 the person was notified of the violation of section 270.260.

17           9. Any rule or portion of a rule, as that term is defined  
18 in section 536.010, that is created under the authority delegated  
19 in this section shall become effective only if it complies with  
20 and is subject to all of the provisions of chapter 536 and, if  
21 applicable, section 536.028. This section and chapter 536 are  
22 nonseverable and if any of the powers vested with the general  
23 assembly pursuant to chapter 536 to review, to delay the  
24 effective date, or to disapprove and annul a rule are  
25 subsequently held unconstitutional, then the grant of rulemaking  
26 authority and any rule proposed or adopted after August 28, 2010,  
27 shall be invalid and void.

28           10. Nothing in this section shall be construed to apply to

1 domestic swine.

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

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

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

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

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

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

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

22 (1) "Auditor", a person appointed under sections 276.401 to  
23 276.582 by the director to assist in the administration of  
24 sections 276.401 to 276.582, and whose duties include making  
25 inspections, audits and investigations authorized under sections  
26 276.401 to 276.582;

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

1 person;

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

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

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

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

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

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

24 (9) "Deferred payment agreement", a conditional grain sales  
25 transaction establishing an agreed upon price for the grain and  
26 delaying payment to an agreed upon later date or time period.  
27 Ownership of the grain, and the right to sell it, transfers from  
28 seller to buyer so long as the conditions specified in section

1 276.461 and section 411.325 are met;

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

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

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

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

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

22 (15) "Generally accepted accounting principles", the  
23 conventions, rules and procedures necessary to define accepted  
24 accounting practice, which include broad guidelines of general  
25 application as well as detailed practices and procedures  
26 generally accepted by the accounting profession, and which have  
27 substantial authoritative support from the American Institute of  
28 Certified Public Accountants;

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

6           (17) "Grain dealer" or "dealer", any person engaged in the  
7 business of, or as a part of his business participates in, buying  
8 grain where title to the grain transfers from the seller to the  
9 buyer within the state of Missouri. "Grain dealer" or "dealer"  
10 shall not be construed to mean or include:

11           (a) Any person or entity who is a member of a recognized  
12 board of trade or futures exchange and whose trading in grain is  
13 limited solely to trading with other members of a recognized  
14 board of trade or futures exchange; provided, that grain  
15 purchases from a licensed warehouseman, farmer/producer or any  
16 other individual or entity in a manner other than through the  
17 purchase of a grain futures contract on a recognized board of  
18 trade or futures exchange shall be subject to sections 276.401 to  
19 276.582. Exempted herein are all futures transactions;

20           (b) A producer or feeder of grain for livestock or poultry  
21 buying grain for his own farming or feeding purposes who  
22 purchases grain exclusively from licensed grain dealers or whose  
23 total grain purchases from producers during his or her fiscal  
24 year do not exceed fifty thousand bushels;

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

27           (d) A manufacturer or processor of registered or  
28 unregistered feed whose total grain purchases from producers

1 during his or her fiscal year [does] do not exceed [one hundred  
2 thousand dollars] fifty thousand bushels and who pays for all  
3 grain purchases from producers at the time of physical transfer  
4 of the grain from the seller or his or her agent to the buyer or  
5 his or her agent and whose resale of such grain is solely in the  
6 form of manufactured or processed feed or feed by-products or  
7 whole feed grains to be used by the purchaser thereof as feed;

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

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

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

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

25 (22) "Minimum price contract", a conditional grain sales  
26 transaction establishing an agreed upon minimum price where the  
27 seller may participate in subsequent price gain, if any.

28 Ownership of the grain, and the right to sell it, transfers from

1 the seller to the buyer so long as the conditions specified in  
2 section 276.461 and section 411.325 are met;

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

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

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

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

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