

FIRST REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 264

## 96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES NOLTE (Sponsor) and WETER (Co-sponsor).

0384L.02P

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 620.1910, RSMo, and to enact in lieu thereof one new section relating to the manufacturing jobs act.

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

Section A. Section 620.1910, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 620.1910, to read as follows:

620.1910. 1. This section shall be known and may be cited as the "Manufacturing Jobs Act".

2. As used in this section, the following terms mean:

(1) "Approval", a document submitted by the department to the qualified manufacturing company or qualified supplier that states the benefits that may be provided under this section;

(2) "Capital investment", expenditures made by a qualified manufacturing company to retool or reconfigure a manufacturing facility directly related to the manufacturing of a new product or the expansion or modification of the manufacture of an existing product;

(3) "County average wage", the same meaning as such term is defined in section 620.1878;

(4) "Department", the department of economic development;

(5) "Facility", a building or buildings located in Missouri at which the qualified manufacturing company manufactures a product;

(6) "Full-time job", a job for which a person is compensated for an average of at least thirty-five hours per week for a twelve-month period, and one for which the qualified

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.

16 manufacturing company or qualified supplier offers health insurance and pays at least fifty  
17 percent of such insurance premiums;

18 (7) "NAICS industry classification", the most recent edition of the North American  
19 Industry Classification System as prepared by the Executive Office of the President, Office of  
20 Management and Budget;

21 (8) "New job", the same meaning as such term is defined in section 620.1878;

22 (9) "New product", a new model or line of a manufactured good that has not been  
23 manufactured in Missouri by the qualified manufacturing company at any time prior to the date  
24 of the notice of intent[, or] . **For a qualified manufacturing company with a NAICS code of**  
25 **33611, new product may include** an existing brand, model, or line of a manufactured good that  
26 is redesigned with more than seventy-five percent new exterior body parts and incorporates new  
27 powertrain options;

28 (10) "Notice of intent", a form developed by the department, completed by the qualified  
29 manufacturing company or qualified supplier and submitted to the department which states the  
30 qualified manufacturing company's or qualified supplier's intent to create new jobs or retain  
31 current jobs and make additional capital investment, as applicable, and request benefits under  
32 this section. The notice of intent shall specify the minimum number of such new or retained jobs  
33 and the minimum amount of such capital investment;

34 (11) "Qualified manufacturing company", a business [with a NAICS code of 33611] that:

35 (a) Manufactures goods at a facility in Missouri;

36 (b) In the case of the manufacture of a new product, commits to make a capital  
37 investment of at least seventy-five thousand dollars per retained job within no more than two  
38 years of the date the qualified manufacturing company begins to retain withholding tax under this  
39 section, or in the case of the modification or expansion of the manufacture of an existing product,  
40 commits to make a capital investment of at least fifty thousand dollars per retained job within  
41 no more than two years of the date the qualified manufacturing company begins to retain  
42 withholding tax under this section;

43 (c) Manufactures a new product or has commenced making capital improvements to the  
44 facility necessary for the manufacturing of such new product, or modifies or expands the  
45 manufacture of an existing product or has commenced making capital improvements to the  
46 facility necessary for the modification or expansion of the manufacture of such existing product;  
47 and

48 (d) Continues to meet the requirements of paragraphs (a) to (c) of this subdivision for  
49 the withholding period;

50 (12) "Qualified supplier", a manufacturing company that:

51 (a) Attests to the department that it derives more than ten percent of the total annual sales  
52 of the company from sales to a qualified manufacturing company;

53 (b) Adds five or more new jobs;

54 (c) Has an average wage, as defined in section 135.950, for such new jobs that are equal  
55 to or exceed the lower of the county average wage for Missouri as determined by the department  
56 using NAICS industry classifications, but not lower than sixty percent of the statewide average  
57 wage; and

58 (d) Provides health insurance for all full-time jobs and pays at least fifty percent of the  
59 premiums of such insurance;

60 (13) "Retained job", the number of full-time jobs of persons employed by the qualified  
61 manufacturing company located at the facility that existed as of the last working day of the  
62 month immediately preceding the month in which notice of intent is submitted;

63 (14) "Statewide average wage", an amount equal to the quotient of the sum of the total  
64 gross wages paid for the corresponding four calendar quarters divided by the average annual  
65 employment for such four calendar quarters, which shall be computed using the Quarterly  
66 Census of Employment and Wages Data for All Private Ownership Businesses in Missouri, as  
67 published by the Bureau of Labor Statistics of the United States Department of Labor;

68 (15) "Withholding period", the seven- or ten-year period in which a qualified  
69 manufacturing company may receive benefits under this section;

70 (16) "Withholding tax", the same meaning as such term is defined in section 620.1878.

71 3. The department shall respond within thirty days to a qualified manufacturing company  
72 or a qualified supplier who provides a notice of intent with either an approval or a rejection of  
73 the notice of intent. Failure to respond on behalf of the department shall result in the notice of  
74 intent being deemed an approval for the purposes of this section.

75 4. A qualified manufacturing company:

76 (1) **That manufactures a new product may, upon the department's approval of a**  
77 **notice of intent and the execution of an agreement that meets the requirements of**  
78 **subsection 9 of this section, but no earlier than January 1, 2012, retain fifty percent of the**  
79 **withholding tax from full-time jobs at the facility for a period of ten years. A qualified**  
80 **manufacturing company that modifies or expands the manufacture of an existing product**  
81 **may, upon the department's approval of a notice of intent and the execution of an**  
82 **agreement that meets the requirements of subsection 9 of this section, but no earlier than**  
83 **January 1, 2012, retain fifty percent of the withholding tax from full-time jobs at the**  
84 **facility for a period of seven years. Except as otherwise allowed under subsection 7 of this**  
85 **section, the commencement of the withholding period may be delayed by no more than**  
86 **twenty-four months after execution of the agreement at the option of the qualified**

87 **manufacturing company. Such qualified manufacturing company shall be eligible for**  
88 **participation in the Missouri quality jobs program in sections 620.1875 to 620.1890 for any**  
89 **new jobs for which it does not retain withholding tax under this section, provided all**  
90 **qualifications for such program are met; or**

91       (2) **With a NAICS code of 33611** that manufactures a new product may, upon the  
92 department's approval of a notice of intent and the execution of an agreement that meets the  
93 requirements of subsection 9 of this section, but no earlier than January 1, 2012, retain one  
94 hundred percent of the withholding tax from full-time jobs at the facility for a period of ten years.  
95 A qualified manufacturing company that modifies or expands the manufacture of an existing  
96 product may, upon the department's approval of a notice of intent and the execution of an  
97 agreement that meets the requirements of subsection 9 of this section, but no earlier than January  
98 1, 2012, retain fifty percent of the withholding tax from full-time jobs at the facility for a period  
99 of seven years. Except as otherwise allowed under subsection 7 of this section, the  
100 commencement of the withholding period may be delayed by no more than twenty-four months  
101 after execution of the agreement at the option of the qualified manufacturing company. Such  
102 qualified manufacturing company shall be eligible for participation in the Missouri quality jobs  
103 program in sections 620.1875 to 620.1890 for any new jobs for which it does not retain  
104 withholding tax under this section, provided all qualifications for such program are met.

105       5. A qualified supplier may, upon approval of a notice of intent by the department, retain  
106 all withholding tax from new jobs for a period of three years from the date of approval of the  
107 notice of intent or for a period of five years if the supplier pays wages for the new jobs equal to  
108 or greater than one hundred twenty percent of county average wage. Notwithstanding any other  
109 provision of law to the contrary, a qualified supplier that is awarded benefits under this section  
110 shall not receive any tax credit or exemption or be entitled to retain withholding under sections  
111 100.700 to 100.850, sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535,  
112 sections 135.900 to 135.906, sections 135.950 to 135.970, or section 620.1881 for the same jobs.

113       6. Notwithstanding any other provision of law to the contrary, the maximum amount of  
114 withholding tax that may be retained by any one qualified manufacturing company under this  
115 section shall not exceed ten million dollars per calendar year. The aggregate amount of  
116 withholding tax that may be retained by all qualified manufacturing companies under this section  
117 shall not exceed fifteen million dollars per calendar year.

118       7. Notwithstanding any other provision of law to the contrary, any qualified  
119 manufacturing company that is awarded benefits under this section shall not simultaneously  
120 receive tax credits or exemptions under sections 100.700 to 100.850, sections 135.100 to  
121 135.150, sections 135.200 to 135.286, section 135.535, or sections 135.900 to 135.906 for the  
122 jobs created or retained or capital improvement which qualified for benefits under this section.

123 The benefits available to the qualified manufacturing company under any other state programs  
124 for which the qualified manufacturing company is eligible and which utilize withholding tax  
125 from the jobs at the facility shall first be credited to the other state program before the applicable  
126 withholding period for benefits provided under this section shall begin. These other state  
127 programs include, but are not limited to, the new jobs training program under sections 178.892  
128 to 178.896, the job retention program under sections 178.760 to 178.764, the real property tax  
129 increment allocation redevelopment act under sections 99.800 to 99.865, or the Missouri  
130 downtown and rural economic stimulus act under sections 99.915 to 99.980. If any qualified  
131 manufacturing company also participates in the new jobs training program in sections 178.892  
132 to 178.896, such qualified manufacturing company shall not retain any withholding tax that has  
133 already been allocated for use in the new jobs training program. Any qualified manufacturing  
134 company or qualified supplier that is awarded benefits under this program and knowingly hires  
135 individuals who are not allowed to work legally in the United States shall immediately forfeit  
136 such benefits and shall repay the state an amount equal to any withholding taxes already retained.  
137 Subsection 5 of section 285.530 shall not apply to qualified manufacturing companies or  
138 qualified suppliers which are awarded benefits under this program.

139 8. The department may promulgate rules to implement the provisions of this section.  
140 Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the  
141 authority delegated in this section shall become effective only if it complies with and is subject  
142 to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and  
143 chapter 536 are nonseverable and if any of the powers vested with the general assembly under  
144 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are  
145 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed  
146 or adopted after the effective date of this section shall be invalid and void.

147 9. Within six months of completion of a notice of intent required under this section, the  
148 qualified manufacturing company shall enter into an agreement with the department that  
149 memorializes the content of the notice of intent, the requirements of this section, and the  
150 consequences for failing to meet such requirements, which shall include the following:

151 (1) If the amount of capital investment made by the qualified manufacturing company  
152 is not made within the two-year period provided for such investment, the qualified manufacturing  
153 company shall immediately cease retaining any withholding tax with respect to jobs at the facility  
154 and it shall forfeit all rights to retain withholding tax for the remainder of the withholding period.  
155 In addition, the qualified manufacturing company shall repay any amounts of withholding tax  
156 retained plus interest of five percent per annum. However, in the event that such capital  
157 investment shortfall is due to economic conditions beyond the control of the qualified  
158 manufacturing company, the director may, at the qualified manufacturing company's request,

159 suspend rather than terminate its privilege to retain withholding tax under this section for up to  
160 three years. Any such suspension shall extend the withholding period by the same amount of  
161 time. No more than one such suspension shall be granted to a qualified manufacturing company;

162 (2) If the qualified manufacturing company discontinues the manufacturing of the new  
163 product and does not replace it with a subsequent or additional new product manufactured at the  
164 facility at any time during the withholding period, the qualified manufacturing company shall  
165 immediately cease retaining any withholding tax with respect to jobs at that facility and it shall  
166 forfeit all rights to retain withholding tax for the remainder of the withholding period.

167 10. Prior to March first each year, the department shall provide a report to the general  
168 assembly including the names of participating qualified manufacturing companies or qualified  
169 suppliers, location of such companies or suppliers, the annual amount of benefits provided, the  
170 estimated net state fiscal impact including direct and indirect new state taxes derived, and the  
171 number of new jobs created or jobs retained.

172 11. Under section 23.253 of the Missouri sunset act:

173 (1) The provisions of the new program authorized under this section shall automatically  
174 sunset October 12, 2016, unless reauthorized by an act of the general assembly; and

175 (2) If such program is reauthorized, the program authorized under this section shall  
176 automatically sunset twelve years after the effective date of the reauthorization of this section;  
177 and

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