

SECOND REGULAR SESSION

HOUSE BILL NO. 2437

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CORLEW.

6222H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 144.054, RSMo, and to enact in lieu thereof twenty-five new sections relating to the Interstate 70 Public-Private Partnership Act.

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

Section A. Section 144.054, RSMo, is repealed and twenty-five new sections enacted
2 in lieu thereof, to be known as sections 144.054, 227.700, 227.706, 227.709, 227.712, 227.715,
3 227.718, 227.721, 227.724, 227.727, 227.730, 227.733, 227.736, 227.739, 227.742, 227.745,
4 227.746, 227.748, 227.751, 227.754, 227.757, 227.760, 227.763, 227.766, and 227.769 to read
5 as follows:

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

2 (1) "Processing", any mode of treatment, act, or series of acts performed upon materials
3 to transform or reduce them to a different state or thing, including treatment necessary to
4 maintain or preserve such processing by the producer at the production facility;

5 (2) "Recovered materials", those materials which have been diverted or removed from
6 the solid waste stream for sale, use, reuse, or recycling, whether or not they require subsequent
7 separation and processing.

8 2. In addition to all other exemptions granted under this chapter, there is hereby
9 specifically exempted from the provisions of sections 144.010 to 144.525 and 144.600 to
10 144.761, and from the computation of the tax levied, assessed, or payable under sections 144.010
11 to 144.525 and 144.600 to 144.761, electrical energy and gas, whether natural, artificial, or
12 propane, water, coal, and energy sources, chemicals, machinery, equipment, and materials used
13 or consumed in the manufacturing, processing, compounding, mining, or producing of any
14 product, or used or consumed in the processing of recovered materials, or used in research and

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.

15 development related to manufacturing, processing, compounding, mining, or producing any
16 product. The exemptions granted in this subsection shall not apply to local sales taxes as defined
17 in section 32.085 and the provisions of this subsection shall be in addition to any state and local
18 sales tax exemption provided in section 144.030.

19 3. In addition to all other exemptions granted under this chapter, there is hereby
20 specifically exempted from the provisions of sections 144.010 to 144.525 and 144.600 to
21 144.761, and section 238.235, and the local sales tax law as defined in section 32.085, and from
22 the computation of the tax levied, assessed, or payable under sections 144.010 to 144.525 and
23 144.600 to 144.761, and section 238.235, and the local sales tax law as defined in section 32.085,
24 all utilities, machinery, and equipment used or consumed directly in television or radio
25 broadcasting and all sales and purchases of tangible personal property, utilities, services, or any
26 other transaction that would otherwise be subject to the state or local sales or use tax when such
27 sales are made to or purchases are made by a contractor for use in fulfillment of any obligation
28 under a defense contract with the United States government, and all sales and leases of tangible
29 personal property by any county, city, incorporated town, or village, provided such sale or lease
30 is authorized under chapter 100, and such transaction is certified for sales tax exemption by the
31 department of economic development, and tangible personal property used for railroad
32 infrastructure brought into this state for processing, fabrication, or other modification for use
33 outside the state in the regular course of business.

34 4. In addition to all other exemptions granted under this chapter, there is hereby
35 specifically exempted from the provisions of sections 144.010 to 144.525 and 144.600 to
36 144.761, and section 238.235, and the local sales tax law as defined in section 32.085, and from
37 the computation of the tax levied, assessed, or payable under sections 144.010 to 144.525 and
38 144.600 to 144.761, and section 238.235, and the local sales tax law as defined in section 32.085,
39 all sales and purchases of tangible personal property, utilities, services, or any other transaction
40 that would otherwise be subject to the state or local sales or use tax when such sales are made
41 to or purchases are made by a private partner for use in completing a project under sections
42 227.600 to 227.669 **or under sections 227.700 to 227.769.**

43 5. In addition to all other exemptions granted under this chapter, there is hereby
44 specifically exempted from the provisions of sections 144.010 to 144.525 and 144.600 to
45 144.761, and section 238.235, and the local sales tax law as defined in section 32.085, and from
46 the computation of the tax levied, assessed, or payable under sections 144.010 to 144.525 and
47 144.600 to 144.761, and section 238.235, and the local sales tax law as defined in section 32.085,
48 all materials, manufactured goods, machinery and parts, electrical energy and gas, whether
49 natural, artificial or propane, water, coal and other energy sources, chemicals, soaps, detergents,
50 cleaning and sanitizing agents, and other ingredients and materials inserted by commercial or

51 industrial laundries to treat, clean, and sanitize textiles in facilities which process at least five
52 hundred pounds of textiles per hour and at least sixty thousand pounds per week.

227.700. 1. Sections 227.700 to 227.769 shall be known and may be cited as the
2 "Interstate 70 Public-Private Partnership Act", and the provisions in sections 227.600 to
3 227.669 shall not be applicable to this act.

4 2. As used in sections 227.700 to 227.769, unless the context clearly requires
5 otherwise, the following terms mean:

6 (1) "Commission", the Missouri highways and transportation commission;

7 (2) "Comprehensive agreement", the final binding written comprehensive project
8 agreement between a private partner and the commission required in section 227.721 to
9 finance, develop, or operate the project;

10 (3) "Department", the Missouri department of transportation;

11 (4) "Develop" or "development", to plan, locate, relocate, establish, acquire, lease,
12 design, or construct the project;

13 (5) "Finance", to fund the costs, expenses, liabilities, fees, profits, and all other
14 charges incurred to finance, develop, or operate the project;

15 (6) "Interim agreement", a preliminary binding written agreement between a
16 private partner and the commission that provides for completion of studies and any other
17 activities to advance the financing, development, or operation of the project required under
18 section 227.718;

19 (7) "Maintain" or "maintenance", to equip, modify, repair, or correct the material
20 condition of the asset or prevent the degradation of the material condition of the project
21 during the operations of the project;

22 (8) "Material default", any uncured default by a private partner in the
23 performance of its duties that jeopardizes adequate service to the public from the project
24 as determined by the commission;

25 (9) "Operate" or "operation", to improve, monitor, manage, maintain, equip,
26 modify, repair, administer, or impose and collect user fees for the project;

27 (10) "Private partner", any natural person, corporation, partnership, limited
28 liability company, joint venture, business trust, nonprofit entity, other business entity, or
29 any combination thereof;

30 (11) "Project", the interstate highway corridor incorporated into the state highway
31 system, administered by the commission, and designated by the commission as Interstate
32 70. The project shall be located from where Interstate 70 intersects with Interstate 470 in
33 the county with a charter form of government and with more than six hundred thousand
34 but fewer than seven hundred thousand inhabitants to where Interstate 70 intersects with

35 Interstate 64/U.S. Route 40 within the county with a charter form of government and with
36 more than three hundred thousand but fewer than four hundred fifty thousand inhabitants
37 that is to be financed, developed, or operated under agreement between the commission
38 and a private partner;

39 (12) "Public use", a finding by the commission that the project to be financed,
40 developed, or operated by a private partner under sections 227.700 to 227.769 will improve
41 or is a necessary or desirable addition to the state highway system, will serve the public
42 health and welfare of motorists and other persons and entities using the facility, and will
43 increase the efficiency and effectiveness of the project's economic benefits to the state;

44 (13) "Revenues", include, but are not limited to the following, which arise out of
45 or in connection with the financing, development, or operation of the project:

46 (a) Income;

47 (b) Earnings;

48 (c) Proceeds;

49 (d) User fees;

50 (e) Lease payments;

51 (f) Allocations;

52 (g) Federal, state, and local moneys; or

53 (h) Private sector moneys, grants, bond proceeds, or equity investments;

54 (14) "State", the state of Missouri;

55 (15) "State highway system", the state system of highways and bridges designated,
56 planned, located, relocated, established, acquired, constructed, and maintained by the
57 commission under article IV, section 30(b), of the Constitution of Missouri;

58 (16) "User fees", includes, but is not limited to, subscription fees paid by a user to
59 access the services provided by the project, as well as any tolls, fees, rents, and other
60 charges authorized to be imposed and collected for the use of all or any portion of the
61 project under a comprehensive agreement between the commission and private partner.

227.706. 1. Any potential private partner may submit a request for approval to the
2 commission to finance, develop, or operate the project. The commission may request such
3 additional information and material in a form and manner determined by the commission.

4 2. The commission may charge a reasonable fee to cover the costs of processing,
5 reviewing, and evaluating a request for approval submitted by a potential private partner.

6 3. If the commission determines there is sufficient merit to pursue a request for
7 approval, the commission shall issue a request for proposal as required by section 227.709
8 to give other entities an opportunity to submit to the commission competing proposals for
9 its consideration.

227.709. 1. The commission shall use a competitive procurement process to form a public-private partnership under sections 227.700 to 227.769. It may proceed with a project only if the commission issues a request for proposals for the financing, development, or operation of the project on the commission's own initiative or in response to a request for approval presented to the commission by a potential private partner under section 227.706.

2. The commission shall publish a public notice of the commission's request for proposals, including any deadline for submission of such proposals. The notice shall be published once a week for two consecutive weeks in:

(1) At least one newspaper of general circulation. Such newspaper shall be in circulation in one city where the proposed project will be located;

(2) At least one construction industry trade publication that is nationally distributed; and

(3) Such other publications or manner as the commission may determine.

3. The material and information required for submission by a potential private partner to be responsive to the commission's request for proposal shall be set forth in the proposal. Notwithstanding the provisions of subsection 2 of section 227.706, the commission shall not charge a processing and review fee.

227.712. 1. The commission shall establish a process for the receipt and review of a request for approval or request for proposal. Such process shall, at a minimum, establish a specific schedule for review by the commission of the request for approval and competing proposals, a process for alteration of such schedule by the commission as the commission deems such changes are necessary due to the scope or complexity of proposals received and the type and amount of information necessary for adequate review of proposals in each stage of review.

2. To promote and support the objectives of the United State's foreign policy regarding terrorism, the commission shall establish, prior to the receipt and review of any request for approval or response to a request for proposal, a policy that prohibits a private partner from being eligible to enter into an interim or comprehensive agreement with the commission to finance, develop, or operate the project if such private partner, or its subsidiaries or affiliated entities, are known to sponsor terrorism or aid the government of countries that are known to sponsor terrorism.

227.715. The commission may by commission minute approve the project if the commission determines the project will improve and is a necessary or desirable addition to the state highway system, will serve the public health and welfare of motor vehicle

4 operators and other persons and entities using the project, and will foster the efficiency
5 and effectiveness of the project's economic benefits to the state.

227.718. 1. The commission may by commission minute grant tentative approval
2 of the potential private partner whose request for approval or response to a request for
3 proposal provides the best value to the state for financing, developing, operating, or
4 maintaining the project. The commission shall establish criteria for making a
5 determination including:

6 (1) The general reputation, qualifications, industry experience, and financial
7 capacity of the potential private partner;

8 (2) The proposed plans for developing or operating the project; and

9 (3) Other criteria that the commission deems appropriate.

10 2. Prior to the granting of tentative approval by the commission for a potential
11 private partner to finance, develop, or operate the project, the commission may review and
12 approve by commission minute an interim agreement with the private partner. Such
13 interim agreement shall be in a form prescribed by the commission and:

14 (1) May authorize the potential private partner to commence activities for which
15 it may be compensated relating to the proposed project;

16 (2) Shall establish the process and timing of the negotiation of the comprehensive
17 agreement between the commission and the private partner; and

18 (3) Shall contain any other provisions that the commission and the potential
19 partner deem appropriate.

227.721. 1. Prior to granting its final approval of a private partner to finance,
2 develop, or operate the project, the commission shall review and approve by commission
3 minute a comprehensive agreement in a form and manner prescribed by the commission
4 that shall, at a minimum, provide for:

5 (1) The start date for construction of the project and any other dates the
6 commission deems necessary to develop or operate the project;

7 (2) That the commission review and approve the final plans and specifications for
8 the development or operation of the project to ensure such plans and specifications
9 conform to the standards acceptable to the commission;

10 (3) A detailed financing plan, contingent upon review and approval by the
11 commission; and

12 (4) Any other provisions the commission and private partner deem appropriate.

13 2. Prior to approval of any comprehensive agreement, the commission shall
14 perform a value-for-money analysis using a public sector comparator to determine whether
15 the project, if procured under a public private partnership procurement, would provide

16 more value to the public, over the projected life cycle of the project or the projected term
17 of the comprehensive agreement, than any other available finance and project delivery
18 procurement methods that are otherwise available to the commission. The commission
19 shall determine, in its sole discretion, the scope and components of the public sector
20 comparator.

227.724. If the commission is not satisfied with the results of negotiations with a
2 potential private partner for an agreement, the commission may terminate negotiations
3 with the potential private partner. The commission may reject any and all requests for
4 approval and responses to a request for proposals.

227.727. All information of any kind submitted by a potential private partner to
2 the commission under a request for approval as provided in section 227.706 or under a
3 response to a request for proposal as provided in section 227.709 shall be a closed record
4 under chapter 610; provided that, after the private partner and the commission execute the
5 comprehensive agreement information provided by the private partner, the interim
6 agreement and the comprehensive agreement shall be an open record under chapter 610.

227.730. The private partner shall have the following powers:

- 2 (1) To contract with a federal agency, the state or its agencies and political
3 subdivisions, the commission, a local or regional transportation authority, a corporation,
4 a partnership, or any person to finance, develop, or operate the project;
- 5 (2) To lease or acquire any right to use or finance, develop, or operate the project
6 with the length of any term to be established in the comprehensive agreement;
- 7 (3) To collect user fees in connection with the use of the project. The collection and
8 enforcement of such user fees shall be consistent with section 227.760;
- 9 (4) To borrow moneys for project purposes at such rates of interest as the private
10 partner may determine; and
- 11 (5) Any other powers delegated to such private partner in the comprehensive
12 agreement with the commission.

227.733. 1. The private partner shall, in connection with the financing,
2 development, or operation of the project, provide the following:

- 3 (1) Security and warranties in the forms and amounts satisfactory to the
4 commission;
- 5 (2) An annual financial statement audited by an independent certified public
6 accountant approved by the commission or such other financial reports and information
7 as required by the commission and in a form acceptable to the commission;
- 8 (3) A summary of any and all compensation paid to the private partner from all
9 sources for the project; and

10 **(4) Evidence satisfactory to the commission of procurement and maintenance at the**
11 **private partner's expense of commercial insurance for such purposes and in an amount**
12 **required by the commission including, but not limited to:**

13 **(a) Commercial general liability insurance for all damages and losses imposed by**
14 **law and assumed under the comprehensive agreement. Commercial general liability**
15 **insurance shall be in coverage and amount consistent with section 227.763 and shall name**
16 **the state for the benefit of the state legal expense fund, and the commission and the**
17 **commission's members, agents, and employees as additional insureds. Each commercial**
18 **general liability insurance policy and commercial automobile liability insurance policy**
19 **shall also contain a separation of insured's condition; and**

20 **(b) Workers' compensation insurance or evidence provided by the private partner**
21 **that the private partner is qualified by the division of workers' compensation as**
22 **self-insured and carries insurance for employer's liability sufficient to comply with all**
23 **obligations under state law relating to workers' compensation and employer's liability.**

24 **2. Notwithstanding the provisions of section 107.170 and section 227.100 to the**
25 **contrary, a bid bond shall not be required for the project; except that, the commission may**
26 **require the private partner to provide such other bonds in such amounts determined by**
27 **the commission to be adequate for the protection of the commission and provided by a**
28 **surety or sureties satisfactory to the commission, including but not limited to:**

29 **(1) A performance bond; and**

30 **(2) A payment bond for the protection of all persons supplying labor and material**
31 **in carrying out the work provided for in the comprehensive agreement for the project. The**
32 **amount of the payment bond shall equal the total amount payable under the terms of the**
33 **comprehensive agreement unless the commission determines in writing supported by**
34 **specific findings that a payment bond in such amount is impractical, in which case the**
35 **commission shall establish the amount of the payment bond; except that, the amount of the**
36 **payment bond shall not be less than the amount of the performance bond.**

227.736. The commission may:

2 **(1) Delegate any of the commission's powers under sections 227.700 to 227.769 to**
3 **the department to carry out the purposes of sections 227.700 to 227.769;**

4 **(2) Promulgate rules to implement any of the provisions of sections 227.700 to**
5 **227.769. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
6 **created under the authority delegated in this section shall become effective only if it**
7 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
8 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**
9 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**

10 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
11 grant of rulemaking authority and any rule proposed or adopted after August 28, 2016,
12 shall be invalid and void; and

13 (3) Make all final decisions concerning the performance and the acceptance of the
14 project work, including claims for additional time and compensation.

227.739. 1. The commission or the private partner may impose, collect, and enforce
2 user fees for the use of the project as provided in the comprehensive agreement. The
3 comprehensive agreement shall also provide the rate of such user fees as may be
4 established by agreement of the commission and the private partner. Such user fees shall
5 be set in an amount that takes into account any lease payments, reasonable return on
6 investment to the private partner, reasonable costs of financing, development, or operation
7 of the project, and any other costs incurred by the commission and the private partner
8 attributed solely to the project. A rate schedule of the current user fees imposed and
9 collected for use of the project shall be made available to the public by the private partner
10 or the commission. Such user fees shall be the same for persons using the project under
11 similar conditions, except as required by agreement between the commission and the
12 private partner to preserve capacity and prevent congestion on the project. The collection
13 and enforcement of such user fees shall be consistent with section 227.760.

14 2. Pursuant to the comprehensive agreement, the user fees collected for the use of
15 the project may be deposited into the state road fund or into a trust account as provided
16 under the comprehensive agreement. All user fee revenue derived from the project shall
17 be expended only as provided in the comprehensive agreement.

227.742. 1. The commission may take any action to obtain federal, state, or local
2 government or private sector assistance for the project and may enter into any contracts
3 required for such assistance.

4 2. In the comprehensive agreement, the commission may agree to loan moneys
5 received from any federal, state, or local government or the private sector to the private
6 partner to finance, develop, or operate the project; provided that, the commission shall
7 obtain from the private partner such security for any loan made to the private partner in
8 any type or amount as the commission deems necessary.

227.745. 1. Any financing of the project may be in such amounts and upon such
2 terms and conditions as may be determined by the commission and the private partner in
3 the interim or comprehensive agreement. The commission and the private partner may use
4 any and all revenues that may be available to them and may, to the fullest extent permitted
5 by applicable law, issue debt, equity, or other securities or obligations.

6 **2. The private partner may issue bonds including, but not limited to, toll revenue,**
7 **corporate, private activity and refunding, and loans, notes, and other obligations, and may**
8 **secure any of such obligations by mortgage, pledge, or deed of trust of any or all of the**
9 **property, except as provided in this subsection, and revenue of the private partner. The**
10 **commission may contract with the private partner to assist in issuing bonds, loans, notes,**
11 **and other obligations under this subsection. The private partner shall not mortgage,**
12 **pledge, or give a deed of trust on any real property or interests obtained by eminent**
13 **domain acquired from the state or any agency or political subdivision of the state. Bonds,**
14 **loans, notes, and other obligations issued under this subsection shall exclusively be the**
15 **responsibility of the private partner payable solely out of private partner revenue and**
16 **property and shall not constitute debt or liability of the commission, the state, or any other**
17 **agency or political subdivision of the state. The private partner and the commission shall**
18 **not be obligated to pay such bonds, loans, notes, or other obligations with any moneys**
19 **other than those specifically pledged to repayment. Any such bonds, loans, notes, or other**
20 **obligations issued by the private partner or the commission shall state on the face that they**
21 **are not obligations of the state or any agency or political subdivision of the state. Any**
22 **bonds under this subsection, the interest thereon, and any proceeds from such bonds shall**
23 **be exempt from taxation by the state for all purposes except the state estate tax.**

24 **3. The private partner may also contract with the commission for the commission**
25 **to issue state road bonds for the project and to loan the proceeds thereof to the private**
26 **partner.**

227.746. 1. Any revenues collected or received under the authority of sections
2 **227.700 to 227.769 shall be exempt from any tax on income imposed by any law of this**
3 **state.**

4 **2. The provisions of subsection 4 of section 144.054 are applicable to all sales made**
5 **to or purchases made by a private partner for use in completing the project authorized**
6 **under sections 227.700 to 227.769.**

7 **3. Property financed, developed, or operated by a private partner under the**
8 **comprehensive agreement with the commission shall be exempt from all state and political**
9 **subdivision ad valorem and property taxes that might otherwise be applicable.**

227.748. The commission may by agreement authorize or require a private partner
2 **to exercise any of the following provisions regarding procurement for the financing,**
3 **development, or operation of the project:**

4 **(1) Use any project delivery method for the efficient development or operation of**
5 **the project. Such project delivery methods shall include, but are not limited to, project**
6 **delivery methods established in section 8.285 or sections 227.100 and 227.107. In addition,**

7 the limitation in subsection 1 of section 227.107 on the number of design-build contracts
8 authorized to be let by the commission shall not apply to the project;

9 (2) Make available to the commission, upon request, all procurement records for
10 financing, development, or operation of the project; and

11 (3) Exempt the project from the general procurement laws in chapter 34.

227.751. The private partner shall provide the commission a detailed disadvantaged
2 business enterprise participation plan that conforms to commission reporting requirements
3 for the federal disadvantaged business enterprise program under federal law and
4 regulations on federal-aid highway projects. The plan shall also provide information
5 describing the experience of the private partner in meeting disadvantaged business
6 enterprise participation goals, how the private partner will meet the department's
7 disadvantaged business participation goals, and such other qualifications the commission
8 considers to be in the best interest of the state.

227.754. The commission may lease to or for the use of a private partner, the
2 project or such right-of-way or other easement in such real estate as the commission deems
3 necessary for the development or operation of the project. Such lease by the commission
4 shall be for such value as determined by the commission. No such lease of any real
5 property interest by the commission under this section shall be deemed to amend or modify
6 the public use restrictions acquired by the commission in such real property.

227.757. 1. The commission may condemn lands for the project in the name of the
2 state highways and transportation commission.

3 2. If condemnation becomes necessary, the commission shall act under chapter 523
4 and may condemn a fee simple or other interest in land. Any amounts to be paid in such
5 condemnation proceeding shall be paid by the private partner under the comprehensive
6 agreement.

7 3. The private partner may, after prior notice to the owner to enter upon the
8 private property subject to the taking, survey and determine the most advantageous route
9 and design. The private partner shall be liable for all damages to the property resulting
10 from such inspection.

227.760. 1. The commission and private partner may use any method to impose,
2 collect, and enforce user fees for the use of the project which may include, but are not
3 limited to, toll tickets, barrier toll facilities, subscription fee accounts, billing accounts,
4 commuter passes, electronic recording or identification devices, or other such technological
5 advances as may be consistent with the form or function of collection of revenue for the use
6 of the project. The display of a recording or identification device issued or authorized by
7 the private partner to collect and enforce user fees for the use of the project on or near the

8 windshield of a motor vehicle shall not be a violation of any law or rule in the state unless
9 the device is attached in a manner that obstructs the operator's clear view of the project.

10 2. The private partner operating the project shall post notice on and around the
11 project in the plain view of motor vehicle operators using the project that reads as follows:

12 "NOTICE: FAILURE TO PAY REQUIRED USER FEES IS A TRAFFIC
13 VIOLATION. ANY FAILURE TO PAY THE REQUIRED USER FEES SHALL BE
14 REPORTED TO THE APPROPRIATE LAW ENFORCEMENT OFFICIALS WHO
15 WILL ISSUE A TRAFFIC CITATION."

16 3. The owner of a motor vehicle involved in a violation for failure to pay the
17 required user fee is guilty of an infraction and upon conviction shall be required to pay the
18 amount of the user fee that was the subject of the violation, which shall be remitted to the
19 private partner, and a fine in an amount not to exceed two hundred dollars.

20 4. A written report or telephone call from or to a law enforcement officer, or photo
21 monitoring system evidence that indicates a required user fee was not paid is admissible
22 in any proceeding to enforce this section, subject to foundation evidence to establish the
23 authenticity of the report, call, or photographs. Photo monitoring system evidence that
24 shows the motor vehicle, whether operated by the owner or another operator, has failed
25 to pay a user fee shall raise a rebuttable presumption that the motor vehicle shown in the
26 photographic evidence was used to commit a violation of this section. If charges are filed
27 against multiple owners of a motor vehicle, only one of the owners shall be convicted and
28 court costs may be assessed against only one of the owners. If the motor vehicle involved
29 in the violation is registered in the name of a rental or leasing company and the vehicle is
30 rented or leased to another person at the time of the violation, the rental or leasing
31 company may rebut the presumption by providing law enforcement or the prosecuting
32 authority with a copy of the rental or lease agreement in effect at the time of the violation.
33 No prosecuting authority shall bring any legal proceeding against a rental or leasing
34 company under this section unless prior written notice of the violation has been given to
35 such rental or leasing company by registered mail at the address appearing on the motor
36 vehicle's registration and the rental or leasing company fails to or has failed to provide the
37 rental or leasing agreement copy to the prosecuting attorney within fifteen days of receipt
38 of such notice.

39 5. The following procedures shall be taken for the enforcement of user fee
40 collections and issuance of traffic citations under this section:

41 (1) Any failure to pay the required user fee in violation of this section shall be
42 reported to a law enforcement officer or agency. The report may be in one of the following
43 forms:

44 (a) A telephone call to a law enforcement agency indicating a violation of the user
45 fee enforcement provisions of this section. If the violation was committed by a motor
46 vehicle, a reasonable description of the motor vehicle shall be given including, but not
47 limited to, the license plate number, make, model, and color of the motor vehicle; or

48 (b) A certificate or a written report sworn to or affirmed by an officer, agent, or
49 other authorized representative of the private partner, Missouri state highway patrol
50 officer, city police officer, or a sheriff's department deputy which alleges that a violation
51 of this section occurred, or a facsimile thereof, based upon inspection of photographs,
52 microphotographs, videotape, or other recorded images produced by a photo monitoring
53 system or a photograph from a photo monitoring system shall be prima facie evidence of
54 the facts contained therein, subject to foundation evidence to establish the authenticity of
55 such photographs, microphotographs, videotape, or other recorded images produced by
56 a photo monitoring system, and shall be admissible in any proceeding charging a violation
57 of the user fee collection and enforcement provisions in this section; provided that, any
58 photographs, microphotographs, videotape, or other recorded images evidencing such a
59 violation shall be available for inspection and admission into evidence in any proceeding
60 to adjudicate the liability for such violation;

61 (2) After a report has been provided to state law enforcement agency, such agency
62 is authorized to issue a traffic citation for failure to pay the required user fee; and

63 (3) The law enforcement agency responsible for the issuance of a traffic citation for
64 failure to pay a required user fee is responsible for prosecution of such citation.

65

66 The provisions of this section shall not prohibit a law enforcement officer from issuing a
67 citation for a violation of any other traffic laws and regulations on the project.

227.763. 1. As a result of the project being a public use and serving the public
2 safety, health, and welfare, tort liability caps are hereby established in this section and
3 made applicable to any private partner and such private partner's employees, agents, and
4 insureds who develop or operate the project under sections 227.700 to 227.769. Such tort
5 liability caps shall be a per person cap and a per occurrence cap and shall be in amounts
6 identical to the tort liability caps established in section 537.610 as such caps are annually
7 amended by the Implicit Price Deflator for Personal Consumption Expenditures under
8 subsection 5 of section 537.610.

9 2. Commercial general liability insurance policy or policies purchased by the
10 private partner under sections 227.700 to 227.769 shall not be used to expand the coverage
11 or increase the amounts of the tort liability caps imposed in this section.

227.766. 1. Prior to exercising any of the remedies under this section, the commission shall provide notice of a material default and the opportunity to cure the default for the benefit of the private partner and any persons specified under the comprehensive agreement as providing financing for the project.

2. Upon the occurrence of and during the continuation of any material default, the commission may exercise any or all of the following remedies:

(1) Make or cause to be made any appropriate claims under the bonds required in section 227.733;

(2) By notice to the private partner by certified mail, terminate the comprehensive agreement and exercise any other rights and remedies, which may be available to the commission at law or in equity;

(3) Condemn under chapter 523 any real property interest of the private partner in the project. Any person who provides financing for the project, to the extent of such person's capital investment, may participate in the condemnation proceedings with the standing of a property owner; and

(4) Collect and enforce user fees for the use of the project under section 227.760.

227.769. The commission shall submit an annual status report to the governor and general assembly following execution of the comprehensive agreement as an individual component of the annual report submitted by the commission to the joint committee on transportation oversight in accordance with section 21.795. The annual report shall assess the advantages and disadvantages of the public-private partnership method of financing, developing, or operating the project.

✓