

FIRST REGULAR SESSION

SENATE BILL NO. 209

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GRIESHEIMER.

Pre-filed December 28, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

0917S.011

AN ACT

To repeal sections 71.675, 92.074, 92.077, 92.080, 92.083, 92.086, 92.089, 92.092, and 92.095, RSMo, and to enact in lieu thereof eight new sections relating to municipal taxation of telecommunications companies.

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

Section A. Sections 71.675, 92.074, 92.077, 92.080, 92.083, 92.086, 92.089, 92.092, and 92.095, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 71.675, 92.074, 92.077, 92.080, 92.083, 92.086, 92.089, and 92.092, to read as follows:

71.675. 1. Notwithstanding any other provision of law to the contrary, no city [or], **county**, town, **or village** shall bring **or maintain** any action in federal or state court in this state as a representative member of a class to enforce or collect any business license tax imposed on a telecommunications company.

2. If otherwise permitted by law, a city, **county**, [or] town, **or village** may, individually or as a single plaintiff in a multiple-plaintiff lawsuit, bring an action in federal or state court in this state to enforce or collect any business license tax imposed on a telecommunications company.

[2.] 3. Nothing in this section shall be construed to preclude any taxpayer from initiating an action in federal or state court as a representative member of a class seeking injunctive relief against the Missouri department of revenue to enforce the imposition, assessment, or collection of the business license tax provided under sections 92.074 to [92.095] **92.092**, RSMo.

4. Subsection 1 of this section shall not apply to any action that is certified as a class action before August 28, 2007.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

92.074. Sections 92.074 to [92.095] **92.092** shall be known as the "**2007**
2 Municipal Telecommunications Business License Tax Simplification Act".

92.077. As used in sections 92.074 to [92.095] **92.092**, unless the context
2 clearly requires otherwise, the following terms mean:

3 (1) "Business license tax", any tax, including any fee, charge, or
4 assessment in the nature of a tax, assessed by a municipality on a
5 telecommunications company for the privilege of doing business within the
6 borders of such municipality, and specifically includes any tax assessed on a
7 telecommunications company by a municipality under section 66.300, RSMo, and
8 section 80.090, RSMo, section **92.045**, section 92.073, section 94.110, 94.270, or
9 94.360, RSMo, or under authority granted in its charter, as well as an occupation
10 license tax, gross receipts tax, franchise tax, or similar tax, but shall not include:

11 (a) Any state or municipal sales tax imposed under sections 144.010 to
12 144.525, RSMo; or

13 (b) Any municipal right-of-way usage fee imposed under the authority of
14 a municipality's police powers under Section 253(c) of the Federal
15 Telecommunications Act of 1996, or under sections 67.1830 to 67.1846, RSMo; or

16 (c) Any tax or fee levied for emergency services under section 190.292,
17 190.305, 190.325, 190.335, or 190.430, RSMo, or any tax authorized by the
18 general assembly after August 28, [2005] **2007**, for emergency services; **or**

19 (d) Any flat tax [duly imposed on or before August 28, 2005] **not**
20 **exceeding twenty-seven thousand five hundred dollars per taxpayer per**
21 **year;**

22 (2) "Director", the director of the department of revenue;

23 (3) "Municipal", of or relating to a municipality;

24 (4) "Municipality", any city, county, town, or village in Missouri entitled
25 by authority of section 66.300, RSMo, section 80.090, RSMo, section **92.045**,
26 **section** 92.073, section 94.110, 94.270, or 94.360, RSMo, or under authority
27 granted in its charter to assess a business license tax on **any type of**
28 telecommunications [companies] **company;**

29 (5) "**Protested tax**", **business license tax that is not available for**
30 **the unrestricted use of a municipality because it has been either paid**
31 **to a municipality under protest pursuant to section 139.031, RSMo, or**
32 **paid into, or segregated under, an escrow or other similar arrangement**
33 **pursuant to an agreement between a telecommunications company and**
34 **a municipality, or under a court order issued in a pending case**

35 involving the business license tax liability of a telecommunications
36 company to a municipality;

37 (6) "Telecommunications company", any company doing business in this
38 state that provides telecommunications service;

39 [(6)] (7) "Telecommunications service", the same meaning as such term
40 is defined in section 144.010, RSMo. The term telephone company, as used in
41 sections 94.110, 94.270, and 94.360, RSMo, shall have the same meaning as
42 telecommunications company as defined in this section.

92.080. Notwithstanding any provisions of this chapter or chapter 66, 80,
2 or 94, RSMo, or the provisions of any municipal charter, after August 28, [2005]
3 2007, no municipality may impose any business license tax, tower tax, or
4 antennae tax on a telecommunications company except as specified in sections
5 92.074 to [92.095] 92.092.

92.083. 1. On or after July 1, [2006] 2008, if any city, county, village, or
2 town has imposed a business license tax on a telecommunications company, as
3 authorized in this chapter, or chapter 66, 80, or 94, RSMo, or under the authority
4 granted in its charter, the terms used in such ordinance shall be construed, for
5 the purposes of sections 92.074 to [92.095] 92.092, to have the meanings set forth
6 in this section, regardless of any contrary definition in the ordinance:

7 (1) "Gross receipts" or any similar term means all receipts from the
8 retail sale of telecommunications service taxable under section 144.020, RSMo,
9 and from any retail customer now or hereafter exempt from the state sales tax;

10 (2) "Telephone service", "telephonic service", "telecommunications
11 service", "telecommunications", "local exchange service", "local exchange telephone
12 transmission service", "exchange telephone service" or similar terms means
13 telecommunications service as defined in section 92.077.

14 2. Nothing in this section shall have the effect of repealing any existing
15 ordinance imposing a business license tax on a telecommunications company;
16 provided that a city with an ordinance in effect prior to [August 28, 2005] July
17 1, 2008, complies with the provisions of section 92.086.

18 3. Any business license tax imposed on a telecommunications company on
19 and after July 1, [2006] 2008, shall be imposed on the retail sale of
20 telecommunications service.

92.086. 1. On or before January 1, [2006] 2008, the director shall publish
2 a list of the municipalities which have[, prior to August 28, 2005,] enacted
3 ordinances imposing a business license tax on a telecommunications

4 company. The list shall contain:

- 5 (1) The name of the municipality imposing the tax;
- 6 (2) The name of the tax as denoted by the municipality;
- 7 (3) The citation to the municipal code provisions imposing the tax; and
- 8 (4) The percentage of gross receipts.

9 The director shall not be required to include any figures for the percentage of
10 gross receipts if the municipality [in question at the time of August 28, 2005,
11 had] **has** an ordinance which [imposed] **imposes** a flat fee instead of a fee based
12 on gross receipts as its business license tax. In compiling the list, the director
13 shall collect information from telecommunications companies, municipalities,
14 municipal codes, and other reliable sources.

15 2. (1) On or before [February 1, 2006] **March 1, 2008**, all
16 telecommunications companies in Missouri shall provide the director and the
17 state auditor with the amount of municipal business license tax which they paid
18 each Missouri municipality identified by the director in accordance with
19 subsection 1 of this section for **telecommunications services provided in the**
20 **previous [four quarters] calendar year, excluding any protested tax.** On or
21 before [February 1, 2006] **March 1, 2008**, all telecommunications companies in
22 Missouri shall provide the director and the state auditor with an itemized list
23 establishing their gross receipts for **telecommunications services provided**
24 **in the previous [four quarters] calendar year** for each category of gross receipts
25 in each municipality identified by the director in accordance with subsection 1 of
26 this section [upon which a sales tax is paid], **including receipts from retail**
27 **sales to customers that are exempt from sales tax, but excluding gross**
28 **receipts from sales to non-business customers with respect to those**
29 **municipalities that exclude such receipts from their business license**
30 **tax. If a telecommunications company does not maintain records that**
31 **segregate gross receipts from business customers, then such company**
32 **may use any reasonable method to estimate such receipts.**

33 (2) On or before [February 1, 2006] **March 1, 2008**, each municipality
34 shall provide the director and state auditor with the total amount of **municipal**
35 **business license** tax revenue collected for [the previous fiscal year of taxable
36 gross receipts from] telecommunications [companies] **services provided in the**
37 **previous calendar year, excluding protested tax.** Any inconsistency or
38 dispute arising from the information provided by the municipalities and
39 telecommunications companies shall be resolved through an audit performed by

40 the state auditor.

41 **(3) Within thirty days of receiving a written request therefor, the**
42 **director shall provide a telecommunications company with the**
43 **aggregate gross receipts and aggregate tax revenue by municipality**
44 **that is reported to the director by all telecommunications companies**
45 **and municipalities, so that the company may verify the new rates**
46 **determined by the municipalities.**

47 3. Beginning on July 1, [2006] **2008**, the director shall henceforth collect,
48 administer, and distribute telecommunications business license tax revenues in
49 accordance with the provisions of sections 92.074 to [92.095] **92.092**.

50 4. [Notwithstanding the provisions of any municipal business license tax
51 ordinance,] Effective July 1, [2006] **2008**, all business license taxes shall be based
52 solely and exclusively on those gross receipts of telecommunications companies
53 for the retail sale of telecommunications services [which are subject to taxation
54 under sections 144.010 and 144.020, RSMo.], **and in order to impose a**
55 **business license tax, a municipality must have previously amended its**
56 **business license tax ordinance to:**

57 **(1) Incorporate the tax base definitions provided by subdivisions**
58 **(1) and (2) of subsection 1 of section 92.083;**

59 **(2) Adopt the tax rate promulgated by the director under**
60 **subsection 6 of this section; and**

61 **(3) Adopt the provisions of subsection 13 of this section.**

62 Any provisions in any municipal taxing ordinances which provide different
63 definitions, rules, or provisions are expressly preempted and are null and void;
64 **provided, however, that provisions limiting taxable receipts to receipts**
65 **from business customers shall not be preempted.**

66 5. The director is authorized to promulgate regulations to establish the
67 appropriate procedures for collecting, administering, and distributing such
68 taxes. **Not less than thirty days after the end of each calendar quarter,**
69 a telecommunications company shall file a quarterly return with the director with
70 an attached schedule setting forth the total amount of taxable gross receipts for
71 the quarter and the amount of business license tax due to each municipality. The
72 director shall distribute the appropriate amounts, as set forth in this section, to
73 the municipalities. In exchange for its collection, administration, and distribution
74 functions, the department of revenue shall retain a collection fee of up to one
75 percent (not to exceed the actual costs incurred) on all funds collected and

76 distributed and shall be allowed to collect the interest off such funds during the
77 time between collection and distribution. In no event shall the director fail to
78 distribute the collected funds to a municipality more than thirty days after the
79 collection of the funds.

80 6. It is the intent of the general assembly that sections 92.074 to [92.095]
81 **92.092** comply with article X, section 22 of the Missouri Constitution, so that the
82 application of sections 92.074 to [92.095] **92.092** shall have a revenue-neutral
83 effect. Because business license taxes shall now be based on [the] gross receipts
84 [subject], **defined by reference** to the sales tax, it is anticipated that the base
85 of the existing business license taxes in most cases shall be broadened, so in order
86 to comply with article X, section 22 of the Missouri Constitution, the municipality
87 shall adjust the gross receipts percentage rate identified by the director in
88 accordance with subsection 2 of this section so that the amount collectible, in
89 total from all telecommunications companies, excluding the collection fee
90 authorized in subsection 5 as defined herein, before and immediately after
91 enactment remains the same in each municipality. If the determination is made
92 by a municipality that in order to comply with article X, section 22 of the
93 Missouri Constitution the gross receipts percentage rate must be increased, such
94 increase shall be passed by a majority vote of the qualified voters voting in that
95 municipality. The existing tax base shall be an amount equal to the total amount
96 of [telecommunications] **telecommunication** business license taxes collected by
97 a municipality for [fiscal year 2005,] **telecommunications services provided**
98 **during calendar year 2007, excluding any protested tax, and** increased
99 by fifty percent of the difference between such amount and the business license
100 tax receipts that would have been yielded by applying the gross receipts
101 percentage rate identified in accordance with subsection 1 of this section to the
102 total gross receipts for all wireless telecommunications services provided by
103 telecommunications companies as identified in 47 U.S.C. Section 332(D)(1) and
104 47 C.F.R. Parts 22 or 24 in such [fiscal] **calendar** year attributable to the
105 municipality, **excluding any gross receipts upon which taxes were paid**
106 **without protest but including any gross receipts upon which protested**
107 **tax was paid.** Based upon the rate information received from the director under
108 this section, each municipality shall, no later than April 1, [2006, promulgate and
109 publish] **2008, provide to the director** the revenue-neutral rates to be applied
110 in each municipality. **The director shall verify that each rate was**
111 **computed pursuant to the methodology provided in this section and,**

112 **after verifying all such rates, and modifying any such rates as needed**
113 **to bring them into compliance with the methodology provided in this**
114 **section, shall promulgate and notify municipalities and**
115 **telecommunications companies of such rates.** Such tax rates shall be the
116 applicable business license tax rate for bills rendered on or after July 1, [2006]
117 **2008.** Any percentages in any ordinance that are contrary to that established by
118 the [municipality herein] **methodology set forth in this section** are null and
119 void. If any municipal business license tax ordinance [as of January 1, 2005,
120 had] **has** a provision stating that the tax only applied to **receipts from** business
121 customers, the new calculated rate under this section also shall be determined
122 based only on **receipts from** business customers and shall apply only to business
123 customers.

124 7. On or before April 1, [2007] **2009**, the director, in consultation with the
125 state auditor and municipalities, shall examine revenues collected and forecast
126 whether a shortfall or excess in municipal revenues for each municipality is likely
127 to occur for the fiscal year ending June 30, [2007] **2009**, due to data reporting
128 errors or other errors in the calculation of the revenue-neutral tax rate. Section
129 32.057, RSMo, shall not restrict the disclosure of information to perform such
130 consultation. If a shortfall or excess is expected, the director, after review and
131 comment from municipalities and telecommunications companies, shall
132 promulgate and publish an adjustment in the rate in such municipalities. Such
133 tax rate adjustment, if necessary, shall apply to bills issued after July 1, [2007]
134 **2009.**

135 8. The director shall be notified in writing within thirty days of any
136 change in the municipal business license tax rate adopted by a municipality. The
137 director shall promulgate such rate changes, but such rate changes may only take
138 effect on the first day of a calendar quarter and only after a minimum of ninety
139 days notice from the director to a telecommunications company. Any subsequent
140 increase in the business license tax rate passed through an ordinance by a
141 municipality which is above that rate as established by the [municipality under]
142 **methodology provided by** subsection 6 of this section shall be passed by a
143 majority vote of the qualified voters voting in that municipality. No municipal
144 tax rate shall exceed the cap provided in subsection 9 of this section.

145 9. Notwithstanding the provisions of subsections 3 to 8 of this section or
146 any other provision of law to the contrary, [for any municipality not subject to the
147 provisions of subsection 10 of this section,] the maximum rate of taxation on gross

148 receipts shall not exceed five percent for bills rendered on or after July 1, [2006]
149 **2008**, except if the business license tax rate for any municipality, as calculated
150 in subsection 6 of this section, or if necessary, subsection 7 of this section, is
151 determined to be greater than five percent, then, notwithstanding the provisions
152 of such subsections, the business license tax rates for such municipality on and
153 after July 1, [2006] **2008**, shall be as follows:

154 (1) For bills rendered between July 1, [2006] **2008**, and June 30, [2008]
155 **2009**, the rate shall be the actual adjusted rate as determined by subsection 6 [of
156 this section, or, if necessary, subsection 7] of this section;

157 (2) For bills rendered between July 1, [2008] **2009**, and June 30, 2010, the
158 rate shall be half the sum of the rate determined in subdivision (1) of this
159 subsection and five percent; and

160 (3) For all bills rendered on and after July 1, 2010, five percent.

161 10. [(1) Any municipality which prior to November 4, 1980, had an
162 ordinance imposing a business license tax on telecommunications companies
163 which specifically included the words "wireless", "cell phones", or "mobile phones"
164 in its business license tax ordinance as revenues upon which a business license
165 tax could be imposed, and had not limited its tax to local exchange telephone
166 service or landlines, and had taken affirmative action to collect such tax from
167 wireless telecommunications providers prior to January 15, 2005, shall not be
168 required to adjust its business license tax rate as provided in subsection 6 of this
169 section and shall not be subject to the provisions of subsection 9 of this section.

170 (2) Any municipality which has an ordinance or an amendment to an
171 ordinance imposing a business license tax on telecommunications companies
172 which was authorized or amended by a public vote subsequent to November 4,
173 1980, and such authorization specifically included the terms "wireless", "cell
174 phones", or "mobile telephones" as revenues upon which a business license tax
175 could be imposed, and had not limited its tax to local exchange telephone service
176 or landlines, and had taken affirmative action to collect such tax from wireless
177 telecommunications providers prior to January 15, 2005, shall not be required to
178 adjust its business license tax rate as provided in subsection 6 of this section and
179 shall not be subject to the provisions of subsection 9 of this section.

180 11.] For purposes of sections 92.074 to [92.095] **92.092**, the director and
181 any municipality shall have the authority to audit any telecommunications
182 company. Notwithstanding the provisions of section 32.057, RSMo, the director
183 of revenue shall furnish any municipality with information it requests to permit

184 the municipality to review and audit the payments of any telecommunications
185 company.

186 [12.] 11. The statute of limitations shall be three years for the alleged
187 nonpayment or underpayment of the business license tax.

188 [13.] 12. Any telecommunications company is authorized to pass through
189 to its retail customers all or part of the business license tax.

190 [14.] 13. The provisions of subsection 5 of section 144.190, RSMo, and
191 subdivision (3) of subsection 12 of section 32.087, RSMo, shall apply to the tax
192 imposed under sections 92.074 to [92.095] **92.092**.

193 [15.] 14. Unless specifically stated otherwise in sections 92.074 to 92.095,
194 taxpayer remedies, enforcement mechanisms, tax refunds, tax protests,
195 assessments, and all other procedures shall be the same as those provided in
196 chapter 144, RSMo.

197 [16.] 15. Any rule or portion of a rule, as that term is defined in section
198 536.010, RSMo, that is created under the authority delegated in this section shall
199 become effective only if it complies with and is subject to all of the provisions of
200 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and
201 chapter 536, RSMo, are nonseverable and if any of the powers vested with the
202 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective
203 date, or to disapprove and annul a rule are subsequently held unconstitutional,
204 then the grant of rulemaking authority and any rule proposed or adopted after
205 August 28, [2005] **2007**, shall be invalid and void.

92.089. 1. The general assembly finds and declares it to be the policy of
2 the state of Missouri that costly litigation which [have] **has** or may be filed by
3 Missouri municipalities against telecommunications companies, concerning the
4 application of certain business license taxes to certain telecommunications
5 companies, and to certain revenues of those telecommunications companies, as set
6 forth below, is detrimental to the economic well being of the state[, and the
7 claims of the municipal governments regarding such business licenses have
8 neither been determined to be valid nor liquidated].

9 2. The general assembly further finds and declares that the [resolution
10 of such uncertain litigation, the uniformity, and the administrative convenience
11 and cost savings to municipalities resulting from, and the revenues which will or
12 may accrue to municipalities in the future as a result of the enactment of sections
13 92.074 to 92.095 are full and adequate] **payment of deemed past liability as**
14 **provided in this section represents** consideration to municipalities, as the

15 term "consideration" is used in article III, section 39(5) of the Missouri
16 Constitution, for the immunity and dismissal of lawsuits outlined in subsection
17 **[2] 3** of this section.

18 **[2. In the event any] 3. If a** telecommunications company, prior to July
19 1, [2006, failed to pay any amount to a municipality based on a subjective good
20 faith belief that either:

21 (1) It was not a telephone company covered by the municipal business
22 license tax ordinance, or the statute authorizing the enactment of such taxing
23 ordinance, or did not provide telephone service as stated in the business license
24 tax ordinance, and therefore owed no business license tax to the municipality; or

25 (2) That certain categories of its revenues did not qualify under the
26 definition or wording of the ordinance as gross receipts or revenues upon which
27 business license taxes should be calculated;

28 such a] **2008, failed to pay a municipality some or all of the business**
29 **license tax that is or may be claimed by such municipality to be due**
30 **from such** telecommunications company [is], then, upon the tendering of
31 **payment to such municipality by such telecommunications company on**
32 **or before January 1, 2008, of the deemed past liability of such**
33 **telecommunications company, such telecommunications company shall**
34 **be** entitled to full immunity from, and shall not be liable to a municipality for,
35 the payment of [the] **any** disputed [amounts] **amount** of business license taxes[.]
36 **for any period** up to and including [July 1, 2006. However, such immunity and
37 release from liability shall not apply to any business license tax imposed in
38 accordance with subdivisions (1) and (2) of subsection 10 of section 92.086 or
39 sections 92.074 to 92.095 after July 1, 2006. If any municipality, prior to July 1,
40 2006, has brought litigation or caused an audit of back taxes for the nonpayment]
41 **June 30, 2008. Upon such payment** by a telecommunications company of
42 [municipal business license taxes, it shall immediately dismiss such lawsuit
43 without] **such deemed past liability to a municipality:**

44 (1) **Such municipality shall dismiss with prejudice any pending**
45 **lawsuit, and [shall] cease and desist [from continuing any audit, except those**
46 **cities described in subsection 10 of section 92.086] any efforts, to collect any**
47 **amount of business license tax liability that is claimed to be due from**
48 **such company, or from any person associated with or affiliated with**
49 **such company, or to otherwise enforce any alleged liability or**
50 **obligation with respect to business license taxes, with respect to all**

51 periods up to and including July 1, 2008; and

52 (2) All protested tax with respect to such telecommunications
53 company and such municipality shall be turned over and released to
54 such telecommunications company, and any refund suit with respect to
55 such protested tax payments shall thereafter be dismissed with
56 prejudice by such telecommunications company. If a
57 telecommunications company collected a specific surcharge from a
58 customer to fund all or a portion of the payment of protested tax that
59 is returned to such telecommunications company under the preceding
60 sentence, and if such customer is still a customer of such
61 telecommunications company when such protested tax is returned to
62 such telecommunications company, then such telecommunications
63 company shall refund the surcharged portion of such protested tax to
64 such customer.

65 4. For purposes of subsections 2 and 3 of this section, "deemed
66 past liability" means the excess, if any, of:

67 (1) The liability that a telecommunications company would owe
68 to a municipality under its business license tax for the period
69 beginning January 1, 2007, and ending March 31, 2007, without regard
70 to any interest or penalty, which shall not be considered in determining
71 deemed past liability, determined by construing such municipality's
72 business license tax ordinance as if section 92.083 was in effect as of
73 January 1, 2007, over;

74 (2) The business license tax (other than protested tax) actually
75 paid by such telecommunications company for such period.

92.092. 1. All provisions of sections 92.074 to 92.089 are [so essentially
2 and inseparably connected with, and so dependent upon, each other that no such
3 provision would be enacted without all others. If a court of competent jurisdiction
4 enters a final judgment on the merits that is not subject to appeal and that
5 declares any provision or part of sections 92.074 to 92.089] **hereby declared to**
6 **be severable, such that if any provisions therein is found to be**
7 unconstitutional or unenforceable [then sections 92.074 to 92.089, in their
8 collective entirety, are invalid and shall have no legal effect as of the date of such
9 judgment. In such event, both telecommunications companies and municipalities
10 shall have the same rights as existed before August 28, 2005, but shall not be
11 entitled to reimbursement, or required to pay reimbursement, for any sums paid
12 in the good faith belief in the validity and constitutionality of sections 92.074 to

13 92.089], then the remaining provisions shall remain valid and
14 enforceable.

15 **2. If a court of competent jurisdiction determines that any rate**
16 **established pursuant to sections 92.074 to 92.089 exceeds the rate**
17 **permitted under article X, section 22 of the Missouri Constitution, then**
18 **such rate shall be reduced so that it complies with such section.**

19 **3. If a court of competent jurisdiction determines that a**
20 **telecommunications company is not entitled to full immunity from a**
21 **municipality as provided in subdivision (3) of section 92.089, then such**
22 **municipality shall immediately return to such telecommunications**
23 **company any deemed past liability paid by such company to such**
24 **municipality.**

 [92.095. The provisions of section 71.675, RSMo, are
2 severable from the provisions of sections 92.074 to 92.092. If any
3 portion of sections 92.074 to 92.092 is declared unconstitutional or
4 the application of any part of sections 92.074 to 92.092 to any
5 person or circumstance is held invalid, section 71.675, RSMo, and
6 its applicability to any person or circumstance shall remain valid
7 and enforceable. If any portion of section 71.675, RSMo, is declared
8 unconstitutional or the application of any part of section 71.675,
9 RSMo, to any person or circumstance is held invalid, sections
10 92.074 to 92.092 and its applicability to any person or circumstance
11 shall remain valid and enforceable.]

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