

SENATE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 268
AN ACT

To repeal sections 536.300, 536.303, 536.305, 536.310, 536.315, 536.323, 536.325, and 536.328, RSMo, and to enact in lieu thereof nine new sections relating to the promotion of business development.

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

Section A. Sections 536.300, 536.303, 536.305, 536.310, 2 536.315, 536.323, 536.325, and 536.328, RSMo, are repealed and 3 nine new sections enacted in lieu thereof, to be known as 4 sections 536.300, 620.3800, 620.3900, 620.3905, 620.3910, 5 620.3915, 620.3920, 620.3925, and 620.3930, to read as follows:

536.300. 1. Prior to submitting proposed rules for 2 adoption, amendment, revision, or repeal, under this chapter 3 the state agency shall determine whether the proposed 4 rulemaking affects small businesses and, if so, the 5 availability and practicability of less-restrictive 6 alternatives that could be implemented to achieve the same 7 results of the proposed rulemaking. This requirement shall 8 not apply to emergency rulemaking pursuant to section 9 536.025 or to constitutionally authorized rulemaking 10 pursuant to Article IV, Section 45 of the Missouri 11 Constitution. This requirement shall be in addition to the 12 fiscal note requirement of sections 536.200 to 536.210.

13 2. If the proposed rules affect small businesses, the 14 state agency shall consider creative, innovative, or 15 flexible methods of compliance for small business and 16 prepare a small business impact statement to be submitted to

17 the secretary of state and the joint committee on
18 administrative rules with the proposed rules. [A copy of
19 the proposed rules and the small business impact statement
20 shall also be filed with the board on the same date as they
21 are filed with the secretary of state.] Such business
22 impact statement and proposed rules shall be submitted to
23 the board prior to providing notice for a public hearing.
24 The statement shall provide a reasonable determination of
25 the following:

26 (1) The methods the agency considered or used to
27 reduce the impact on small businesses such as consolidation,
28 simplification, differing compliance, or reporting
29 requirements, less stringent deadlines, performance rather
30 than design standards, exemption, or any other mitigating
31 techniques;

32 (2) How the agency involved small businesses in the
33 development of the proposed rules;

34 (3) The probable monetary costs and benefits to the
35 implementing agency and other agencies directly affected,
36 including the estimated total amount the agency expects to
37 collect from any additionally imposed fees and the manner in
38 which the moneys will be used, if such costs are capable of
39 determination;

40 (4) A description of the small businesses that will be
41 required to comply with the proposed rules and how they may
42 be adversely affected, except in cases where the state
43 agency has filed a fiscal note that complies with all of the
44 provisions of section 536.205;

45 (5) In dollar amounts, the increase in the level of
46 direct costs, such as fees or administrative penalties, and
47 indirect costs, such as reporting, record keeping,
48 equipment, construction, labor, professional services,
49 revenue loss, or other costs associated with compliance if

50 such costs are capable of determination, except in cases
51 where the state agency has filed a fiscal note that complies
52 with all of the provisions of section 536.205;

53 (6) The business that will be directly affected by,
54 bear the cost of, or directly benefit from the proposed
55 rules;

56 (7) Whether the proposed rules include provisions that
57 are more stringent than those mandated by any comparable or
58 related federal, state, or county standards, with an
59 explanation of the reason for imposing the more-stringent
60 standard.

61 3. Any proposed rule that is required to have a small
62 business impact statement but does not include such a
63 statement shall be invalid and the secretary of state should
64 not publish the rule until such time as the statement is
65 provided. If the state agency determines that its proposed
66 rule does not affect small business, the state agency shall
67 so certify this finding in the transmittal letter to the
68 secretary of state, stating that it has determined that such
69 proposed rule will not have an economic impact on small
70 businesses and the secretary of state shall publish the rule.

71 4. [Sections 536.300 to 536.310] This section and
72 section 536.020 shall not apply where the proposed rule is
73 being promulgated on an emergency basis, where the rule is
74 federally mandated, or where the rule substantially codifies
75 existing federal or state law. Notwithstanding the
76 provisions of this section, federally mandated regulations
77 are subject to the federal Regulatory Flexibility Act as
78 amended by the Small Business Regulatory and Enforcement
79 Fairness Act of 1996, P.L. 96-354, as amended by P.L.
80 104.121. Any federally mandated regulations that do not
81 comply with these acts shall be subject to this section.

2 620.3800. There is hereby created within the
3 department of economic development the "Office of
4 Entrepreneurship". The office shall employ an individual to
5 promote policies and initiatives to support the growth of
6 entrepreneurship of Missouri-based businesses with less than
7 ten employees, including entrepreneurship within racial
8 minority groups, as such term is defined in section 37.013,
9 and women and veteran entrepreneurship, in the state. The
10 office shall work with Missouri stakeholders and
11 communities, including minority communities, to provide
12 information and technical support to entrepreneurs. The
13 office shall support and advise the office of administration
14 with preparing the report pursuant to subsection 3 of
section 34.195.

2 620.3900. 1. Sections 620.3900 to 620.3930 shall be
3 known and may be cited as the "Regulatory Sandbox Act".

4 2. For the purposes of sections 620.3900 to 620.3930,
5 the following terms shall mean:

6 (1) "Advisory committee", the general regulatory
7 sandbox program advisory committee created in section
8 620.3910;

9 (2) "Applicable agency", a department or agency of the
10 state that by law regulates a business activity and persons
11 engaged in such business activity, including the issuance of
12 licenses or other types of authorization, and which the
13 regulatory relief office determines would otherwise regulate
14 a sandbox participant. A participant may fall under
15 multiple applicable agencies if multiple agencies regulate
16 the business activity that is subject to the sandbox program
17 application. "Applicable agency" shall not include the
18 division of professional registration and its boards,
commissions, committees, and offices;

- 19 (3) "Applicant" or "sandbox applicant", a person or
20 business that applies to participate in the sandbox program;
- 21 (4) "Consumer", a person who purchases or otherwise
22 enters into a transaction or agreement to receive a product
23 or service offered through the sandbox program pursuant to a
24 demonstration by a program participant;
- 25 (5) "Demonstrate" or "demonstration", to temporarily
26 provide an offering of an innovative product or service in
27 accordance with the provisions of the sandbox program;
- 28 (6) "Department", the department of economic
29 development;
- 30 (7) "Innovation", the use or incorporation of a new
31 idea, a new or emerging technology, or a new use of existing
32 technology to address a problem, provide a benefit, or
33 otherwise offer a product, production method, or service;
- 34 (8) "Innovative offering", an offering of a product or
35 service that includes an innovation;
- 36 (9) "Product", a commercially distributed good that is:
37 (a) Tangible personal property; and
38 (b) The result of a production process;
- 39 (10) "Production", the method or process of creating
40 or obtaining a good, which may include assembling, breeding,
41 capturing, collecting, extracting, fabricating, farming,
42 fishing, gathering, growing, harvesting, hunting,
43 manufacturing, mining, processing, raising, or trapping a
44 good;
- 45 (11) "Regulatory relief office", the office
46 responsible for administering the sandbox program within the
47 department;
- 48 (12) "Sandbox participant" or "participant", a person
49 or business whose application to participate in the sandbox
50 program is approved in accordance with the provisions of
51 section 620.3915;

52 (13) "Sandbox program", the general regulatory sandbox
53 program created in sections 620.3900 to 620.3930 that allows
54 a person to temporarily demonstrate an innovative offering
55 of a product or service under a waiver or suspension of one
56 or more state laws or regulations;

57 (14) "Sandbox program director", the director of the
58 regulatory relief office;

59 (15) "Service", any commercial activity, duty, or
60 labor performed for another person or business. "Service"
61 shall not include a product or service when its use would
62 impact rates, statutorily authorized service areas, or
63 system safety or reliability of an electrical corporation or
64 gas corporation, as defined in section 386.020, as
65 determined by the public service commission, or of any rural
66 electric cooperative organized or operating under the
67 provisions of chapter 394, or to any corporation organized
68 on a nonprofit or a cooperative basis as described in
69 subsection 1 of section 394.200, or to any electrical
70 corporation operating under a cooperative business plan as
71 described in subsection 2 of section 393.110, or of any
72 municipally owned utility organized or operating under the
73 provisions of chapter 91, or of any joint municipal utility
74 commission organized or operating under the provisions of
75 sections 393.700 to 393.770.

620.3905. 1. There is hereby created within the
2 department of economic development the "Regulatory Relief
3 Office", which shall be administered by the sandbox program
4 director. The sandbox program director shall report to the
5 director of the department and may appoint staff, subject to
6 the approval of the director of the department.

7 2. The regulatory relief office shall:

8 (1) Administer the sandbox program pursuant to
9 sections 620.3900 to 620.3930;

10 (2) Act as a liaison between private businesses and
11 applicable agencies that regulate such businesses to
12 identify state laws or regulations that could potentially be
13 waived or suspended under the sandbox program;

14 (3) Consult with each applicable agency; and

15 (4) Establish a program to enable a person to obtain
16 monitored access to the market in the state along with legal
17 protections for a product or service related to the laws or
18 regulations that are being waived as a part of participation
19 in the sandbox program, in order to demonstrate an
20 innovative product or service without obtaining a license or
21 other authorization that might otherwise be required.

22 3. The regulatory relief office shall:

23 (1) Review state laws and regulations that may
24 unnecessarily inhibit the creation and success of new
25 companies or industries and provide recommendations to the
26 governor and the general assembly on modifying or repealing
27 such state laws and regulations;

28 (2) Create a framework for analyzing the risk level of
29 the health, safety, and financial well-being of consumers
30 related to permanently removing or temporarily waiving laws
31 and regulations inhibiting the creation or success of new
32 and existing companies or industries;

33 (3) Propose and enter into reciprocity agreements
34 between states that use or are proposing to use similar
35 regulatory sandbox programs as described in sections
36 620.3900 to 620.3930, provided that such reciprocity
37 agreement is supported by a majority vote of the advisory
38 committee and the regulatory relief office is directed by an
39 order of the governor to pursue such reciprocity agreement;

40 (4) Enter into agreements with or adopt best practices
41 of corresponding federal regulatory agencies or other states
42 that are administering similar programs;

43 (5) Consult with businesses in the state about
44 existing or potential proposals for the sandbox program; and

45 (6) In accordance with the provisions of chapter 536
46 and the provisions of sections 620.3900 to 620.3930, make
47 rules regarding the administration of the sandbox program,
48 including making rules regarding the application process and
49 the reporting requirements of sandbox participants. Any
50 rule or portion of a rule, as that term is defined in
51 section 536.010, that is created under the authority
52 delegated in this section shall become effective only if it
53 complies with and is subject to all of the provisions of
54 chapter 536 and, if applicable, section 536.028. This
55 section and chapter 536 are nonseverable and if any of the
56 powers vested with the general assembly pursuant to chapter
57 536 to review, to delay the effective date, or to disapprove
58 and annul a rule are subsequently held unconstitutional,
59 then the grant of rulemaking authority and any rule proposed
60 or adopted after August 28, 2023, shall be invalid and void.

61 4. (1) The regulatory relief office shall create and
62 maintain on the department's website a web page that invites
63 residents and businesses in the state to make suggestions
64 regarding laws and regulations that could be modified or
65 eliminated to reduce the regulatory burden on residents and
66 businesses in the state.

67 (2) On at least a quarterly basis, the regulatory
68 relief office shall compile the relevant suggestions from
69 the web page created pursuant to subdivision (1) of this
70 subsection and provide a written report to the governor and
71 the general assembly.

72 (3) In creating the report described in subdivision
73 (2) of this subsection, the regulatory relief office:

74 (a) Shall provide the identity of residents and
75 businesses that make suggestions on the web page if those

76 residents and businesses wish to comment publicly, and shall
77 ensure that the private information of residents and
78 businesses that make suggestions on the web page is not made
79 public if they do not wish to comment publicly; and

80 (b) May evaluate the suggestions and provide analysis
81 and suggestions regarding which state laws and regulations
82 could be modified or eliminated to reduce the regulatory
83 burden on residents and businesses in the state while still
84 protecting consumers.

85 5. (1) By October first of each year, the department
86 shall submit an annual report to the governor, the general
87 assembly, and to each state agency which shall include:

88 (a) Information regarding each participant in the
89 sandbox program, including industries represented by each
90 participant and the anticipated or actual cost savings that
91 each participant experienced;

92 (b) The anticipated or actual benefit to consumers
93 created by each demonstration in the sandbox program;

94 (c) Recommendations regarding any laws or regulations
95 that should be permanently modified or repealed;

96 (d) Information regarding any health and safety events
97 related to the activities of a participant in the sandbox
98 program; and

99 (e) Recommendations for changes to the sandbox program
100 or other duties of the regulatory relief office.

101 (2) The department may provide an interim report from
102 the sandbox program director to the governor and general
103 assembly on specific, time-sensitive issues for the
104 functioning of the sandbox program, for the health and
105 safety of consumers, for the success of participants in the
106 program, and for other issues of urgent need.

620.3910. 1. There is hereby created within the
2 department of economic development the "General Regulatory

3 Sandbox Program Advisory Committee", to be composed of the
4 following members:

5 (1) The director of the department of economic
6 development or his or her designee;

7 (2) The director of the department of commerce and
8 insurance or his or her designee;

9 (3) The attorney general or his or her designee;

10 (4) Two members of the public to be appointed by the
11 governor;

12 (5) A member of the public or of an institution of
13 higher education, to be appointed by the governor;

14 (6) A member of an institution of higher education, to
15 be appointed by the director of the department of higher
16 education and workforce development;

17 (7) Two members of the house of representatives, one
18 to be appointed by the speaker of the house of
19 representatives and one to be appointed by the minority
20 leader of the house of representatives; and

21 (8) Two members of the senate, one to be appointed by
22 the president pro tempore of the senate and one to be
23 appointed by the minority leader of the senate;

24 2. (1) Advisory committee members shall be appointed
25 to a four-year term. Members who cease holding elective
26 office shall be replaced by the speaker or minority leader
27 of the house of representatives or the president pro tempore
28 or minority floor leader of the senate, as applicable. The
29 sandbox program director may establish the terms of initial
30 appointments so that approximately half of the advisory
31 committee is appointed every two years.

32 (2) The sandbox program director shall select a chair
33 of the advisory committee every two years in consultation
34 with the members of the advisory committee.

35 (3) No appointee of the governor, speaker of the house
36 of representatives, or president pro tempore of the senate
37 may serve more than two consecutive complete terms.

38 3. A majority of the advisory committee shall
39 constitute a quorum for the purpose of conducting business,
40 and the action of a majority of a quorum shall constitute
41 the action of the advisory committee, except as provided in
42 subsection 4 of this section.

43 4. The advisory committee may, at its own discretion,
44 meet to override a decision of the regulatory relief office
45 on the admission or denial of an applicant to the sandbox
46 program, provided such override is decided with a two-thirds
47 majority vote of the members of the advisory committee, and
48 further provided that such vote shall be taken within
49 fifteen business days of the regulatory relief office's
50 decision.

51 5. The advisory committee shall advise and make
52 recommendations to the regulatory relief office on whether
53 to approve applications to the sandbox program pursuant to
54 section 620.3915.

55 6. The regulatory relief office shall provide
56 administrative staff support for the advisory committee.

57 7. The members of the advisory committee shall serve
58 without compensation, but may be reimbursed for any actual
59 and necessary expenses incurred in the performance of the
60 advisory committee's official duties.

61 8. Meetings of the advisory committee shall be
62 considered public meetings for the purposes of chapter 610.
63 However, a meeting of the committee shall be a closed
64 meeting if the purpose of the meeting is to discuss an
65 application for participation in the regulatory sandbox
66 program and failing to hold a closed meeting would reveal
67 information that constitutes proprietary or confidential

68 trade secrets. Upon approval by a majority vote by members
69 of the advisory committee, the advisory committee shall be
70 allowed to conduct remote meetings, and individual members
71 shall be allowed to attend meetings remotely. The advisory
72 committee shall provide the public the ability to view any
73 such remote meetings.

620.3915. 1. An applicant for the sandbox program
2 shall provide to the regulatory relief office an application
3 in a form prescribed by the regulatory relief office that:

4 (1) Confirms the applicant is subject to the
5 jurisdiction of the state;

6 (2) Confirms the applicant has established physical
7 residence or a virtual location in the state from which the
8 demonstration of an innovative offering will be developed
9 and performed, and where all required records, documents,
10 and data will be maintained;

11 (3) Contains relevant personal and contact information
12 for the applicant, including legal names, addresses,
13 telephone numbers, email addresses, website addresses, and
14 other information required by the regulatory relief office;

15 (4) Discloses criminal convictions of the applicant or
16 other participating personnel, if any; and

17 (5) Contains a description of the innovative offering
18 to be demonstrated, including statements regarding:

19 (a) How the innovative offering is subject to
20 licensing, legal prohibition, or other authorization
21 requirements outside of the sandbox program;

22 (b) Each law or regulation that the applicant seeks to
23 have waived or suspended while participating in the sandbox
24 program;

25 (c) How the innovative offering would benefit
26 consumers;

27 (d) How the innovative offering is different from
28 other innovative offerings available in the state;

29 (e) The risks that might exist for consumers who use
30 or purchase the innovative offering;

31 (f) How participating in the sandbox program would
32 enable a successful demonstration of the innovative offering
33 of an innovative product or service;

34 (g) A description of the proposed demonstration plan,
35 including estimated time periods for beginning and ending
36 the demonstration;

37 (h) Recognition that the applicant will be subject to
38 all laws and regulations pertaining to the applicant's
39 innovative offering after the conclusion of the
40 demonstration;

41 (i) How the applicant will end the demonstration and
42 protect consumers if the demonstration fails;

43 (j) A list of each applicable agency, if any, that the
44 applicant knows regulates the applicant's business; and

45 (k) Any other required information as determined by
46 the regulatory relief office.

47 2. An applicant shall remit to the regulatory relief
48 office an application fee of three hundred dollars per
49 application for each innovative offering. Such application
50 fees shall be used by the regulatory relief office solely
51 for the purpose of implementing the provisions of sections
52 620.3900 to 620.3930.

53 3. An applicant shall file a separate application for
54 each innovative offering that the applicant wishes to
55 demonstrate.

56 4. An applicant for the sandbox program may contact
57 the regulatory relief office to request a consultation
58 regarding the sandbox program before submitting an
59 application. The regulatory relief office may provide

60 assistance to an applicant in preparing an application for
61 submission.

62 5. (1) After an application is filed, the regulatory
63 relief office shall:

64 (a) Consult with each applicable agency that regulates
65 the applicant's business regarding whether more information
66 is needed from the applicant; and

67 (b) Seek additional information from the applicant
68 that the regulatory relief office determines is necessary.

69 (2) No later than fifteen business days after the day
70 on which a completed application is received by the
71 regulatory relief office, the regulatory relief office shall:

72 (a) Review the application and refer the application
73 to each applicable agency that regulates the applicant's
74 business; and

75 (b) Provide to the applicant:

76 a. An acknowledgment of receipt of the application; and

77 b. The identity and contact information of each
78 applicable agency to which the application has been referred
79 for review.

80 (3) No later than sixty days after the day on which an
81 applicable agency receives a completed application for
82 review, the applicable agency shall provide a written report
83 to the sandbox program director with the applicable agency's
84 findings. Such report shall:

85 (a) Describe any identifiable, likely, and significant
86 harm to the health, safety, or financial well-being of
87 consumers that the relevant law or regulation protects
88 against; and

89 (b) Make a recommendation to the regulatory relief
90 office that the applicant either be admitted or denied
91 entrance into the sandbox program.

92 (4) An applicable agency may request an additional ten
93 business days to deliver the written report required by
94 subdivision (3) of this subsection by providing notice to
95 the sandbox program director, which request shall
96 automatically be granted. An applicable agency may request
97 only one extension per application. The sandbox program
98 director may also provide an additional extension to the
99 applicable agency for cause.

100 (5) If an applicable agency recommends an applicant
101 under this section be denied entrance into the sandbox
102 program, the written report required by subdivision (3) of
103 this subsection shall include a description of the reasons
104 for such recommendation, including the reason a temporary
105 waiver or suspension of the relevant laws or regulations
106 would potentially significantly harm the health, safety, or
107 financial well-being of consumers or the public and the
108 assessed likelihood of such harm occurring.

109 (6) If an applicable agency determines that the
110 consumer's or public's health, safety, or financial well-
111 being can be protected through less restrictive means than
112 the existing relevant laws or regulations, the applicable
113 agency shall provide a recommendation of how that can be
114 achieved.

115 (7) If an applicable agency fails to deliver the
116 written report required by subdivision (3) of this
117 subsection, the sandbox program director shall provide a
118 final notice to the applicable agency for delivery of the
119 written report. If the report is not delivered within five
120 days of such final notice, the sandbox program director
121 shall assume that the applicable agency does not object to
122 the temporary waiver or suspension of the relevant laws or
123 regulations for an applicant seeking to participate in the
124 sandbox program.

125 6. (1) Notwithstanding any provision of this section
126 to the contrary, an applicable agency may, by written notice
127 to the regulatory relief office:

128 (a) Reject an application, provided such rejection
129 occurs within forty-five days after the day on which the
130 applicable agency receives a complete application for
131 review, or within fifty days if an extension has been
132 requested by the applicable agency, if the applicable agency
133 determines, in the applicable agency's sole discretion, that
134 the applicant's offering fails to comply with standards or
135 specifications:

136 a. Required by federal rule or regulation; or
137 b. Previously approved for use by a federal agency; or

138 (b) Reject an application preliminarily approved by
139 the regulatory relief office, if the applicable agency:

140 a. Recommends rejection of the application in the
141 applicable agency's written report submitted pursuant to
142 subdivision (3) of subsection 5 of this section; and

143 b. Provides in the written report submitted pursuant
144 to subdivision (3) of subsection 5 of this section a
145 description of the applicable agency's reasons approval of
146 the application would create a substantial risk of harm to
147 the health or safety of the public, or create unreasonable
148 expenses for taxpayers in the state.

149 (2) If any applicable agency rejects an application on
150 a nonpreliminary basis pursuant to subdivision (1) of this
151 subsection, the regulatory relief office shall not approve
152 the application.

153 7. (1) The sandbox program director shall provide all
154 applications and associated written reports to the advisory
155 committee upon receiving a written report from an applicable
156 agency.

157 (2) The sandbox program director may call the advisory
158 committee to meet as needed, but not less than once per
159 quarter if applications are available for review.

160 (3) After receiving and reviewing the application and
161 each associated written report, the advisory committee shall
162 provide to the sandbox program director the advisory
163 committee's recommendation as to whether the applicant
164 should be admitted as a sandbox participant.

165 (4) As part of the advisory committee's review of each
166 report, the advisory committee shall use criteria used by
167 applicable agencies to evaluate applications.

168 8. The regulatory relief office shall consult with
169 each applicable agency and the advisory committee before
170 admitting an applicant into the sandbox program. Such
171 consultation may include seeking information about whether:

172 (1) The applicable agency has previously issued a
173 license or other authorization to the applicant; and

174 (2) The applicable agency has previously investigated,
175 sanctioned, or pursued legal action against the applicant.

176 9. In reviewing an application under this section, the
177 regulatory relief office and applicable agencies shall
178 consider whether:

179 (1) A competitor to the applicant is or has been a
180 sandbox participant and, if so, weigh that as a factor in
181 favor of allowing the applicant to also become a sandbox
182 participant;

183 (2) The applicant's plan will adequately protect
184 consumers from potential harm identified by an applicable
185 agency in the applicable agency's written report;

186 (3) The risk of harm to consumers is outweighed by the
187 potential benefits to consumers from the applicant's
188 participation in the sandbox program; and

189 (4) Certain state laws or regulations that regulate an
190 innovative offering should not be waived or suspended even
191 if the applicant is approved as a sandbox participant,
192 including applicable anti-fraud or disclosure provisions.

193 10. An applicant shall become a sandbox participant if
194 the regulatory relief office approves the application for
195 the sandbox program and enters into a written agreement with
196 the applicant describing the specific laws and regulations
197 that are waived or suspended as part of participation in the
198 sandbox program. Notwithstanding any other provision of
199 this section to the contrary, the regulatory relief office
200 shall not enter into a written agreement with an applicant
201 that exempts the applicant from any income, property, or
202 sales tax liability unless such applicant otherwise
203 qualifies for an exemption from such tax.

204 11. (1) The sandbox program director may deny at his
205 or her sole discretion any application submitted under this
206 section for any reason, including if the sandbox program
207 director determines that the preponderance of evidence
208 demonstrates that suspending or waiving enforcement of a law
209 or regulation would cause significant risk of harm to
210 consumers or residents of the state.

211 (2) If the sandbox program director denies an
212 application submitted under this section, the regulatory
213 relief office shall provide to the applicant a written
214 description of the reasons for not allowing the applicant to
215 become a sandbox participant.

216 (3) The denial of an application submitted under this
217 section shall not be subject to judicial or administrative
218 review.

219 (4) The acceptance or denial of an application
220 submitted under this section may be overridden by an
221 affirmative vote of a two-thirds majority of the advisory

222 committee at the discretion of the advisory committee,
223 provided such vote shall take place within fifteen business
224 days of the sandbox program director's decision.

225 Notwithstanding any other provision of this section to the
226 contrary, the advisory committee shall not override a
227 rejection made by an applicable agency.

228 (5) The sandbox program director shall deny an
229 application for participation in the sandbox program if the
230 applicant or any person who seeks to participate with the
231 applicant in demonstrating an innovative offering has been
232 convicted, entered into a plea of nolo contendere, or
233 entered a plea of guilty or nolo contendere held in
234 abeyance, for any crime involving significant theft, fraud,
235 or dishonesty if the crime bears a significant relationship
236 to the applicant's or other participant's ability to safely
237 and competently participate in the sandbox program.

238 12. When an applicant is approved for participation in
239 the sandbox program, the sandbox program director shall
240 provide notice of the approval on the department's website.

241 13. Applications to participate in the sandbox program
242 shall be considered public records for the purposes of
243 chapter 610, provided, however, that any information
244 contained in such applications that constitutes proprietary
245 or confidential trade secrets shall not be subject to
246 disclosure pursuant to chapter 610.

2 620.3920. 1. If the regulatory relief office approves
3 an application pursuant to section 620.3915, the sandbox
4 participant shall have twenty-four months after the day on
5 which the application was approved to demonstrate the
6 innovative offering described in the sandbox participant's
7 application.

8 2. An innovative offering that is demonstrated within
the sandbox program shall only be available to consumers who

9 are residents of Missouri or of another state. No law or
10 regulation shall be waived or suspended if waiving or
11 suspending such law or regulation would prevent a consumer
12 from seeking restitution in the event that the consumer is
13 harmed.

14 3. Nothing in sections 620.3900 to 620.3930 shall
15 restrict a sandbox participant that holds a license or other
16 authorization in another jurisdiction from acting in that
17 jurisdiction in accordance with such license or other
18 authorization.

19 4. (1) During the demonstration period, a sandbox
20 participant shall not be subject to the enforcement of state
21 laws or regulations identified in the written agreement
22 between the regulatory relief office and the sandbox
23 participant.

24 (2) A prosecutor shall not file or pursue charges
25 pertaining to any action related to a law or regulation
26 identified in the written agreement between the regulatory
27 relief office and the sandbox participant that occurs during
28 the demonstration period.

29 (3) A state agency shall not file or pursue any
30 punitive action against a sandbox participant, including a
31 fine or license suspension or revocation, for the violation
32 of a law or regulation that is identified as being waived or
33 suspended in the written agreement between the regulatory
34 relief office and the sandbox participant that occurs during
35 the demonstration period.

36 5. Notwithstanding any provision of this section to
37 the contrary, a sandbox participant shall not have immunity
38 related to any criminal offense committed during the sandbox
39 participant's participation in the sandbox program.

40 6. By written notice, the regulatory relief office may
41 end a sandbox participant's participation in the sandbox

42 program at any time and for any reason, including if the
43 sandbox program director determines that a sandbox
44 participant is not operating in good faith to bring an
45 innovative offering to market; provided, however, that the
46 sandbox program director's decision may be overridden by an
47 affirmative vote of a two-thirds majority of the members of
48 the advisory committee.

49 7. The regulatory relief office and regulatory relief
50 office's employees shall not be liable for any business
51 losses or the recouping of application expenses or other
52 expenses related to the sandbox program, including for:

53 (1) Denying an applicant's application to participate
54 in the sandbox program for any reason; or

55 (2) Ending a sandbox participant's participation in
56 the sandbox program at any time and for any reason.

620.3925. 1. Before demonstrating an innovative
2 offering to a consumer, a sandbox participant shall disclose
3 the following information to the consumer:

4 (1) The name and contact information of the sandbox
5 participant;

6 (2) A statement that the innovative offering is
7 authorized pursuant to the sandbox program and, if
8 applicable, that the sandbox participant does not have a
9 license or other authorization to provide an innovative
10 offering under state laws that regulate offerings outside of
11 the sandbox program;

12 (3) A statement that specific laws and regulations
13 have been waived for the sandbox participant for the
14 duration of its demonstration in the sandbox program, with a
15 summary of such waived laws and regulations;

16 (4) A statement that the innovative offering is
17 undergoing testing and may not function as intended and may

18 expose the consumer to certain risks as identified by the
19 applicable agency's written report;

20 (5) A statement that the provider of the innovative
21 offering is not immune from civil liability for any losses
22 or damages caused by the innovative offering;

23 (6) A statement that the provider of the innovative
24 offering is not immune from criminal prosecution for
25 violations of state law or regulations that are not
26 suspended or waived as allowed within the sandbox program;

27 (7) A statement that the innovative offering is a
28 temporary demonstration that may be discontinued at the end
29 of the demonstration period;

30 (8) The expected end date of the demonstration period;
31 and

32 (9) A statement that a consumer may contact the
33 regulatory relief office and file a complaint regarding the
34 innovative offering being demonstrated, providing the
35 regulatory relief office's telephone number, email address,
36 and website address where a complaint may be filed.

37 2. The disclosures required by subsection 1 of this
38 section shall be provided to a consumer in a clear and
39 conspicuous form and, for an internet- or application-based
40 innovative offering, a consumer shall acknowledge receipt of
41 the disclosure before any transaction may be completed.

42 3. The regulatory relief office may require that a
43 sandbox participant make additional disclosures to a
44 consumer.

620.3930. 1. At least forty-five days before the end
2 of the twenty-four-month demonstration period, a sandbox
3 participant shall:

4 (1) Notify the regulatory relief office that the
5 sandbox participant will exit the sandbox program and
6 discontinue the sandbox participant's demonstration after

7 the day on which the twenty-four-month demonstration period
8 ends; or

9 (2) Seek an extension pursuant to subsection 4 of this
10 section.

11 2. If the regulatory relief office does not receive
12 notification as required by subsection 1 of this section,
13 the demonstration period shall end at the end of the twenty-
14 four-month demonstration period.

15 3. If a demonstration includes an innovative offering
16 that requires ongoing services or duties beyond the twenty-
17 four-month demonstration period, the sandbox participant may
18 continue to demonstrate the innovative offering but shall be
19 subject to enforcement of the laws or regulations that were
20 waived or suspended as part of the sandbox program.

21 4. (1) No later than forty-five days before the end
22 of the twenty-four-month demonstration period, a sandbox
23 participant may request an extension of the demonstration
24 period.

25 (2) The regulatory relief office shall grant or deny a
26 request for an extension by the end of the twenty-four-month
27 demonstration period.

28 (3) The regulatory relief office may grant an
29 extension for not more than twelve months after the end of
30 the demonstration period.

31 (4) Sandbox participants may apply for additional
32 extensions in accordance with the criteria used to assess
33 their initial application, up to a cumulative maximum of
34 seven years inclusive of the original twenty-four-month
35 demonstration period.

36 (5) Notwithstanding the provisions of subsection 3 of
37 this section to the contrary, if a sandbox participant is
38 granted an extension pursuant to this subsection beyond the
39 twenty-four-month demonstration period, the demonstration

40 shall not be subject to enforcement of the laws or
41 regulations that were waived or suspended as part of the
42 sandbox program until the end of the extended demonstration
43 period.

44 5. (1) A sandbox participant shall retain records,
45 documents, and data produced in the ordinary course of
46 business regarding an innovative offering demonstrated in
47 the sandbox program for twenty-four months after exiting the
48 sandbox program.

49 (2) The regulatory relief office may request relevant
50 records, documents, and data from a sandbox participant,
51 and, upon the regulatory relief office's request, the
52 sandbox participant shall make such records, documents, and
53 data available for inspection by the regulatory relief
54 office.

55 6. If a sandbox participant ceases to provide an
56 innovative offering before the end of a demonstration
57 period, the sandbox participant shall notify the regulatory
58 relief office and each applicable agency and report on
59 actions taken by the sandbox participant to ensure consumers
60 have not been harmed as a result.

61 7. The regulatory relief office shall establish
62 quarterly reporting requirements for each sandbox
63 participant, including information about any consumer
64 complaints.

65 8. No later than thirty days after the day on which a
66 sandbox participant exits the sandbox program, the sandbox
67 participant shall submit a written report to the regulatory
68 relief office and each applicable agency describing an
69 overview of the sandbox participant's demonstration.
70 Failure to submit such a report shall result in the sandbox
71 participant and any entity that later employs a member of
72 the leadership team of the sandbox participant being

73 prohibited from future participation in the sandbox
74 program. Such report shall include any:
75 (1) Incidents of harm to consumers;
76 (2) Legal action filed against the sandbox participant
77 as a result of the participant's demonstration; or
78 (3) Complaint filed with an applicable agency as a
79 result of the sandbox participant's demonstration.

80 Any incident reports of harm to consumers, legal actions
81 filed against a sandbox participant, or complaints filed
82 with an applicable agency shall be compiled and made
83 publicly available on the regulatory sandbox webpage
84 provided, however, that any information contained in such
85 reports or complaints that constitutes proprietary or
86 confidential trade secrets shall not be subject to
87 disclosure pursuant to chapter 610.

88 9. No later than thirty days after the day on which an
89 applicable agency receives the quarterly report required by
90 subsection 7 of this section or a written report from a
91 sandbox participant as required by subsection 9 of this
92 section, the applicable agency shall provide a written
93 report to the regulatory relief office on the demonstration,
94 which describes any statutory or regulatory reform the
95 applicable agency recommends as a result of the
96 demonstration.

97 10. The regulatory relief office may remove a sandbox
98 participant from the sandbox program at any time if the
99 regulatory relief office determines that a sandbox
100 participant has engaged in, is engaging in, or is about to
101 engage in any practice or transaction that is in violation
102 of sections 620.3900 to 620.3930 or that constitutes a
103 violation of a law or regulation for which suspension or
104 waiver has not been granted pursuant to the sandbox
105 program. Information on any removal of a sandbox

106 participant for engaging in any practice or transaction that
107 constitutes a violation of law or regulation for which
108 suspension or waiver has not been granted pursuant to the
109 sandbox program shall be made publicly available on the
110 regulatory sandbox webpage, provided, however, that any
111 information that constitutes proprietary or confidential
112 trade secrets shall not be subject to disclosure pursuant to
113 chapter 610.

2 [536.303. 1. For any proposed rules that
3 affect small business, the agency shall also
4 submit a small business statement to the board
5 after a public hearing is held. This section
6 shall not apply to emergency rules. The small
7 business statement required by this section
8 shall provide the following information:

9 (1) A description of how the opinions or
10 comments from affected small businesses were
11 solicited;

12 (2) A summary of the public and small
13 business comments;

14 (3) A summary of the agency's response to
15 those comments; and

16 (4) The number of persons who attended the
17 public hearing, testified at the hearing, and
18 submitted written comments.

19 2. If a request to change the proposed
20 rule was made at the hearing in a way that
21 affected small business, a statement of the
22 reasons for adopting the proposed rule without
23 the requested change shall be included in the
small business statement.]

2 [536.305. 1. There is hereby established
3 the "Small Business Regulatory Fairness Board".
4 The department of economic development shall
5 provide staff support for the board.

6 2. The board shall be composed of nine
7 members appointed in the following manner:

8 (1) One member who is the chair of the
9 minority business advocacy commission;

10 (2) One member appointed by the president
11 pro tempore of the senate;

12 (3) One member appointed by the minority
13 leader of the senate;

14 (4) One member appointed by the speaker of
15 the house of representatives;

16 (5) One member appointed by the minority
17 leader of the house of representatives; and

18 (6) Four members appointed by the governor.

19 3. Each member of the board, except for
20 the public members and the chair of the minority
21 business advocacy commission, shall be a current
22 or former owner or officer of a small business.
All members of the board shall represent a

23 variety of small businesses, both rural and
24 urban, and be from a variety of geographical
25 areas of this state, provided that no more than
26 two members shall represent the same type of
27 small business.

28 4. Members of the board shall serve a term
29 of three years and may be reappointed at the
30 conclusion of the term. No member shall serve
31 more than three consecutive terms. Appointments
32 shall be made so that one-third of the
33 membership of the board shall terminate each
34 year. The governor shall appoint the initial
35 chairperson of the board and a majority of the
36 board shall elect subsequent chairpersons. The
37 chairperson shall serve as chair for a term of
38 not more than two years.

39 5. Members of the board shall serve
40 without compensation, but may be reimbursed for
41 reasonable and necessary expenses relating to
42 their performance of duties, according to the
43 rules and regulations of travel issued by the
44 office of administration. Members will be
45 required to submit an expense account form in
46 order to obtain reimbursement for expenses
47 incurred.

48 6. The board shall meet as often as
49 necessary, as determined by the chairperson of
50 the board. All meetings of the board will be
51 conducted in accordance with the governmental
52 bodies and records act, chapter 610, including
53 closed sessions. Notice will be posted and will
54 be provided to the joint committee on
55 administrative rules. Minutes of the meetings
56 shall be provided to all members, the office of
57 the governor, and the joint committee on
58 administrative rules.

59 7. In addition to any other powers
60 provided by sections 536.300 to 536.328, the
61 board may adopt any rules necessary to implement
62 sections 536.300 to 536.328 and take any action
63 necessary to effectuate the purposes of sections
64 536.300 to 536.328. Any rule or portion of a
65 rule, as that term is defined in section
66 536.010, that is created under the authority
67 delegated in this section shall become effective
68 only if it complies with and is subject to all
69 of the provisions of this chapter and, if
70 applicable, section 536.028. This section and
71 this chapter are nonseverable and if any of the
72 powers vested with the general assembly pursuant
73 to this chapter to review, to delay the
74 effective date, or to disapprove and annul a
75 rule are subsequently held unconstitutional,
76 then the grant of rulemaking authority and any
77 rule proposed or adopted after August 28, 2005,
78 shall be invalid and void.]

[536.310. 1. The board shall:

2 (1) Provide state agencies with input
3 regarding rules that adversely affect small
4 businesses;

5 (2) Solicit input and conduct hearings
6 from small business owners and state agencies
7 regarding any rules proposed by a state agency;
8 and

9 (3) Provide an evaluation report to the
10 governor and the general assembly, including any
11 recommendations and evaluations of state
12 agencies regarding regulatory fairness for
13 Missouri's small businesses. The report shall
14 include comments from small businesses, state
15 agency responses, and a summary of any public
16 testimony on rules brought before the board for
17 consideration.

18 2. In any inquiry conducted by the board
19 because of a request from a small business
20 owner, the board may make recommendations to the
21 state agency. If the board makes
22 recommendations, such recommendations shall be
23 based on any of the following grounds:

24 (1) The rule creates an undue barrier to
25 the formation, operation, and expansion of small
26 businesses in a manner that significantly
27 outweighs the rule's benefits to the public; or

28 (2) New or significant economic
29 information indicates the proposed rule would
30 create an undue impact on small businesses; or

31 (3) Technology, economic conditions, or
32 other relevant factors justifying the purpose
33 for the rule has changed or no longer exists; or

34 (4) If the rule was adopted after August
35 28, 2004, whether the actual effect on small
36 businesses was not reflected in or significantly
37 exceeded the small business impact statement
38 submitted prior to the adoption of the rules.

39 3. Subject to appropriations, by a
40 majority vote of the board, the board may hire a
41 one-half full-time equivalent employee for
42 clerical support and a full-time equivalent
43 employee with total salaries funded from the
44 department of economic development
45 appropriations up to one hundred fifty thousand
46 dollars adjusted annually for inflation for
47 professional positions to:

48 (1) Conduct internet website additions,
49 corrections, and deletions;

50 (2) Develop training programs for agencies;

51 (3) Send regulatory alerts to interested
52 small business subscribers;

53 (4) Track small business comments
54 regarding agencies and review and respond to the
55 agency and small business accordingly;

56 (5) Prepare for board meetings and
57 hearings, including outreach, travel, agendas,
58 and minutes;

59 (6) Prepare member maintenance expense
60 reports and appointments;

61 (7) Analyze small business impact
62 statements. After such analysis, the employee
63 shall review such statements, offer suggestions,
64 and work with agencies to meet the statute
65 requirements;
66 (8) Analyze biannual report reviews;
67 (9) Conduct agency correspondence and
68 training;
69 (10) Conduct small business outreach by
70 speaking at chamber and association events;
71 (11) Review the Missouri Register and
72 other sources to look for proposed rules that
73 may affect small business.
74 4. Subject to appropriations, the board
75 may receive additional funds for:
76 (1) Upkeep of its internet website;
77 (2) Information technology;
78 (3) Mileage for board members;
79 (4) Publication, printing, and
80 distribution of annual reports;
81 (5) Outreach costs; and
82 (6) Expenses and equipment for the one and
83 one-half full-time equivalent employee of the
84 board.
85 5. A majority vote of the board members
86 shall be required for the hiring, retention, and
87 termination of board employees. All duties of
88 board employees shall be dedicated solely to the
89 support of and for the furtherance of the
90 purpose and mission of the board.]

2 [536.315. Any state agency receiving
3 recommendations from the board shall promptly
4 consider such recommendations and may file a
5 response with the board within sixty days of
6 receiving the board's recommendations. If the
7 state agency determines that no action shall be
8 taken on the board's recommendations, the agency
9 should explain its reasons for its
10 determination. If the state agency determines
11 that the board's recommendations merit adoption,
12 amendment or repeal of a rule, the agency should
indicate this in its response.]

2 [536.323. 1. In addition to the basis for
3 filing a petition provided in section 536.041,
4 any affected small business may file a written
5 petition with the agency that has adopted rules
6 objecting to all or part of any rule affecting
7 small business on any of the following grounds:
8 (1) The actual effect on small business
9 was not reflected in or significantly exceeded
10 the small business impact statement submitted
11 prior to the adoption of the rules;
12 (2) The small business impact statement
13 did not consider new or significant economic
14 information that reveals an undue impact on
15 small business; or
16 (3) The impacts were not previously
considered at the public hearing on the rules.

17 2. For any rule adopted prior to August
18 28, 2005, an affected small business may file a
19 written petition with the agency that adopted
20 the rule objecting to all or part of any rule
21 affecting small business on any of the following
22 grounds:

23 (1) The rule creates an undue barrier to
24 the formation, operation, and expansion of small
25 businesses in a manner that significantly
26 outweighs the rule's benefit to the public;

27 (2) The rule duplicates, overlaps, or
28 conflicts with rules adopted by the agency or
29 any other agency or violates the substantive
30 authority under which the rule was adopted; or

31 (3) The technology, economic conditions,
32 or other relevant factors justifying the purpose
33 for the rule has changed or no longer exist.

34 3. Upon submission of the petition, the
35 agency shall forward a copy of the petition to
36 the board and the joint committee on
37 administrative rules, as required by section
38 536.041, as notification of a petition filed
39 under sections 536.300 to 536.328. The agency
40 shall promptly consider the petition and may
41 seek advice and counsel regarding the petition.
42 Within sixty days after the receipt of the
43 petition, the agency shall determine whether the
44 impact statement or public hearing addressed the
45 actual and significant impact on small
46 business. The agency shall submit a written
47 response of the agency's determination to the
48 board within sixty days of the receipt of the
49 petition. If the agency determines that the
50 petition merits the adoption, amendment, or
51 repeal of a rule, it may initiate proceedings in
52 accordance with the applicable requirements of
53 this chapter.

54 4. If the agency determines that the
55 petition does not merit the adoption, amendment,
56 or repeal of a rule, any affected small business
57 may seek a review of the decision by the board.
58 The board may convene a hearing or by other
59 means solicit testimony that will assist in its
60 determination of whether to recommend that the
61 agency initiate proceedings in accordance with
62 this chapter. For rules adopted after August
63 28, 2005, the board shall base its
64 recommendations on any of the following reasons:

65 (1) The actual effect on small business
66 was not reflected in or significantly exceeded
67 the impact statement submitted prior to the
68 adoption of the rule;

69 (2) The impact statement did not consider
70 new or significant economic information that
71 reveals an undue impact on small business;

72 (3) Such impacts were not previously
73 considered by the agency; or

74 (4) Such impacts were not previously
75 considered at the public hearing on the rules.

76 5. For rules adopted prior to August 28,
77 2005, the board shall base its recommendations
78 on any of the following reasons:
79 (1) The rules created an undue barrier to
80 the formation, operation, and expansion of small
81 businesses in a manner that significantly
82 outweighs its benefit to the public;
83 (2) The rules duplicate, overlap, or
84 conflict with rules adopted by the agency or any
85 other agency or violate the substantive
86 authority under which the rules were adopted; or
87 (3) The technology, economic conditions,
88 or other relevant factors justifying the purpose
89 for the rules have changed or no longer exist.
90 6. The board shall make an evaluation
91 report to the governor and the general assembly
92 on rulemaking proceedings, comments from small
93 business, and agency response as provided in
94 this section. The governor or general assembly
95 may subsequently take such action in response to
96 the evaluation report and agency response as
97 they find appropriate.]

2 [536.325. 1. The board shall provide to
3 the head of each agency a list of any rules
4 adopted by the agency that affect small business
5 and have generated complaints or concerns,
6 including any rules that the board determines
7 may duplicate, overlap, or conflict with other
8 rules or exceed statutory authority. Within
9 forty-five days after being notified by the
10 board the list of rules adopted, the agency
11 shall submit a written report to the board in
12 response to the complaints or concerns. The
13 agency shall also state whether the agency has
14 considered the continued need for the rules and
15 the degree to which technology, economic
16 conditions, and other relevant factors may have
17 diminished or eliminated the need for
18 maintaining the rules.

19 2. The board may solicit testimony from
20 the public at a public meeting regarding any
21 report submitted by the agency under this
22 section or section 536.175. The board shall
23 electronically submit an evaluation report to
24 the governor and the general assembly regarding
25 small business comments, agency response, and
26 public testimony on rules in this section and
27 the report shall be maintained on the board's
28 website. The governor and the general assembly
29 may take such action in response to the report
as they find appropriate.]

2 [536.328. For any regulation subject to
3 sections 536.300 to 536.328, a small business
4 that is adversely affected or aggrieved by final
5 agency action is entitled to judicial review of
6 agency compliance with the requirements of
7 sections 536.300 to 536.328. Judicial review
shall be commenced in the circuit court of the

8 county in which the small business has its
9 primary place of business, or in Cole County.
10 If the small business does not have a primary
11 place of business in the state, proper venue
12 shall be in Cole County. Notwithstanding any
13 provisions of this chapter to the contrary, an
14 affected small business may seek such judicial
15 review during the period beginning on the date
16 the proposed rule becomes final and ending one
17 year later.]