

Missouri Revised Statutes

Chapter 292

Health and Safety of Employees

Section 292.600

August 28, 2002

Definitions.

292.600. As used in sections 292.600 to 292.625, the following terms mean:

- (1) "Department", the state department of public safety;
- (2) "District or local emergency planning committee", a committee established by the Missouri emergency response commission and may include one or more counties or cities in Missouri;
- (3) "Employer", a person engaged in business and including the state and any political subdivision thereof;
- (4) "Hazardous substance", any substance which is:
 - (a) Listed in Title III, Emergency Planning and Community Right-to-Know, of the federal Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499; or
 - (b) A pesticide for which a registration has been canceled or suspended under the provisions of section 281.260, RSMo, or the federal Insecticide, Fungicide and Rodenticide Act of 1972, Public Law 92-516, as amended; or
 - (c) An extremely hazardous substance or hazardous chemical as defined in Title III, Emergency Planning and Community Right-to-Know, as enacted under the federal Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499; and which an employer stores, uses or produces, but shall not include any substance which is a food or drug as defined in the federal Food, Drug and Cosmetic Act, 21 U.S.C., Section 321, et seq.; packaged for distribution to, and used by, the general public, including any product used by an employer in the same form, approximate amount, concentration, and manner as it is sold to the consumer; present in a physical state, volume, or concentration for which there is no valid and substantial evidence that a significant risk to human health may occur from exposure; used in a laboratory for experimentation, research, development or testing by or under the direct supervision of a technically qualified individual, provided that the toxic substance or mixture is not produced in the laboratory for commercial purposes;
- (5) "Person", one or more individuals, partnerships, associations, corporations, business trusts, legal representatives or any organized group of persons.

(L. 1985 H.B. 507 & 139 § 1, A.L. 1987 H.B. 655, A.L. 1988 S.B. 765, A.L. 1993 H.B. 550)

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[Missouri General Assembly](#)

Missouri Revised Statutes

Chapter 292

Health and Safety of Employees

Section 292.602

August 28, 2002

Missouri emergency response commission established--members --appointment, qualifications--terms--vacancies--removal for cause --expenses, powers and duties.

292.602. 1. The "Missouri Emergency Response Commission", herein to be known as the commission, is hereby established and is officially domiciled in the department of public safety. The commission shall be composed of the director of the department of economic development, or his designee; the director of the department of natural resources, or his designee; the director of the department of public safety, or his designee; the director of the department of health and senior services, or his designee; six members appointed by the governor with the advice and consent of the senate; one to represent transporters of hazardous materials; one to represent Missouri industry; one to represent local government; one chief fire officer from a recognized fire department or fire protection district; one police officer of the rank of captain or above from a recognized county or municipal police department; and one to represent the general public and four members of the general assembly, two of whom shall be appointed by the speaker of the house and two of whom shall be appointed by the president pro tem of the senate. All members of the commission shall represent the general interest of the public and shall, to the extent practicable, have technical expertise in the emergency response field. No more than three members appointed by the governor shall be of the same political party. The terms of office for the members appointed by the governor shall be four years and until their successors are selected and qualified, except that, of those first appointed, two shall have a term of three years, two shall have a term of two years and two will have a term of one year. There is no limitation on the number of terms an appointed member may serve. The governor may appoint a member for the remaining portion of the unexpired term created by a vacancy. The governor may remove any appointed member for cause.

2. All members of the commission shall serve without compensation for their duties, but shall be reimbursed for necessary travel and other expenses incurred in the performance of their official duties.

3. The Missouri emergency response commission in conjunction with the department shall:

(1) Carry out those responsibilities designated under sections 292.600 to 292.625 and implement sections 292.600 to 292.625 and the Emergency Planning and Community Right-to-Know Act of 1986, Public Law 99-499, as amended, and all rules and regulations promulgated pursuant thereto, herein to be known as the Federal Act;

(2) Designate local emergency planning districts to facilitate preparation and implementation of emergency plans, appoint members of a local emergency planning committee for each local emergency planning district, support and coordinate the activities of such committees, review the emergency plans submitted by local emergency planning committees, and make recommendations to the local emergency planning committees regarding those plans;

(3) Establish a single filing point for all reports and filings that are required to be submitted to the commission under the provisions of sections 292.600 to 292.625 and the Federal Act;

(4) Accept, receive and administer grants or other funds or gifts from public and private agencies, including the federal

government, for the purpose of carrying out the functions and responsibilities enumerated in sections 292.600 to 292.625;

(5) Provide assistance to the local emergency planning committees for the purpose of carrying out the functions and responsibilities enumerated in sections 292.600 to 292.625 and the Federal Act by utilizing all available expertise both public and private, including, but not limited to, the departments of natural resources, public safety and health;

(6) Provide training to local emergency planning committees and other local officials to accomplish the purposes and objectives of the Federal Act and the provisions of sections 292.600 to 292.625. The department of public safety will coordinate the provisions of such training and periodically report to the commission on training activities;

(7) Enter into such agreements with other state agencies, local governments and other political subdivisions of the state, the federal government and other persons as is determined to be appropriate to implement the Federal Act and the provisions of sections 292.600 to 292.625;

(8) Allot funds as specified in section 292.604 to local emergency planning committees;

(9) Develop a data management system to store and retrieve information submitted under the provisions of sections 292.600 to 292.625 and the Federal Act. The commission and the department will provide assistance to local emergency planning committees and fire departments, fire protection districts, volunteer fire protection services and others to make this information readily available to them for planning and emergency response purposes.

(L. 1989 H.B. 77, et al., A.L. 1992 S.B. 480, A.L. 1993 H.B. 550, A.L. 1996 S.B. 740)

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Missouri Revised Statutes

Chapter 292

Health and Safety of Employees

Section 292.604

August 28, 2002

Funding of commission--distribution of funds.

292.604. 1. The duties and the responsibilities of the commission and department under sections 292.600 to 292.625 shall be funded by the chemical emergency preparedness fund and general revenue upon appropriation.

2. Such appropriations shall be distributed as follows:

(1) Sixty-five percent of the funds collected under subsection 2 of section 292.606 shall be provided to the local emergency planning committees for their responsibilities under sections 292.600 to 292.625 and the federal act as follows:

(a) Of the sixty-five percent provided in subdivision (1) of this subsection, one-third shall be equally distributed annually to each local emergency planning committee through the governing body of each county or a city not within a county or any city with a population greater than four hundred thousand and located in more than one county;

(b) Two-thirds shall be distributed to the local emergency planning committees through the county governing body or any city not within a county or any city with a population greater than four hundred thousand and located in more than one county, based on the number of facilities identified with hazardous chemicals as defined in section 311(e) of the federal act; and on the presence of highways, railroads, pipelines and other pertinent entities as the commission and the department may determine;

(c) When a local emergency planning district has been formed the moneys distributed under paragraphs (a) and (b) of this subdivision to any county governing body or any city not within a county or any city with a population greater than four hundred thousand, located in more than one county which is a part of a district shall immediately transfer such funds to the district committee;

(d) Funds provided to local emergency planning committees under this section shall be used for purposes specified by the commission and the department for carrying out the purposes of sections 292.600 to 292.625 and the federal act. Use of such funds for purposes other than those specified can result in refusal to provide additional funds to that jurisdiction. The commission and the department may recover, by appropriate legal means, any funds spent inconsistent with the grant or contract under which such funds were provided;

(2) Twenty-five percent of the funds collected under subsection 2 of section 292.606 shall be available to carry out the responsibilities of the commission and the department under sections 292.600 to 292.625 and the federal act;

(3) Ten percent of the funds collected under subsection 2 of section 292.606 shall be distributed to the division of fire safety in the department of public safety to be used for hazardous materials training courses to carry out the provisions of sections 292.600 to 292.625. Training programs provided under this subsection shall be reviewed by the commission.

3. Fees collected by the commission under section 292.606 shall be placed in the chemical emergency preparedness fund to carry out the responsibilities of the commission and the department under sections 292.600 to 292.625 and the federal act.

4. Private donations, federal grants, contracts, interest accruing to the fund, and other funds shall be administered by the department in conjunction with the commission for purposes of chemical emergency preparedness as specified in sections 292.600 to 292.625 and the federal act.

(L. 1989 H.B. 77, et al., A.L. 1992 S.B. 480)

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Missouri Revised Statutes

Chapter 292

Health and Safety of Employees

Section 292.605

August 28, 2002

Employer to furnish certain information, to whom, form--on-site inspections, when--updating of information, when--information made available to public, by whom, fee.

292.605. 1. Every employer shall provide information and reports regarding the properties and nature of the hazardous substances which he stores, uses or produces to the local fire protection service, the department and the local emergency planning committee. Requirements for information under this subsection may be satisfied by the employer through the submission of an annual Tier II form as defined in 40 CFR Part 370 or other alternative methods of reporting approved by the department. Submittal to the department of a Tier II form or any other alternative method of reporting approved by the department shall satisfy the reporting requirements to the Missouri emergency response commission as directed under Title III of the Superfund Amendments and Reauthorization Act of 1986.

2. In addition to the information required in subsection 1 of this section, employers shall permit on-site inspections, as required by Title III, Emergency Planning and Community Right-to-Know, of the federal Superfund Amendments of 1986, Public Law 99-499, by the local fire chief or his representative, upon request, for the purpose of planning fire protection and emergency response activities. In addition to an on-site inspection, the employer shall provide a material safety data sheet or information by written description or diagram, if requested by the local fire protection service or local emergency planning committee regarding the kind, location, approximate quantities, hazardous nature and method of containment of hazardous substances which the employer stores, uses or produces at the facility. In addition to the information required by this subsection, the employer shall provide the fire protection service or local emergency planning committee with relevant information, through on-site inspection or written description or diagram, on all other hazardous substances, as defined in section 260.500, RSMo, which the employer has knowledge are present at the facility in such form and quantity as to present a potential threat to public health and safety or the environment in the event of a fire or a release of the hazardous substance at the facility. For the purposes of this subsection, relevant information required of the employer on hazardous substances shall include the kind, location, approximate quantities, properties, hazardous characteristics and such other related information as the fire protection service may require to respond effectively to an emergency at the facility. Information required of the employer by the department of natural resources on hazardous waste pursuant to sections 260.350 to 260.432, RSMo, which is made available or provided to the fire protection service shall satisfy the requirements for information on such substances under this subsection. Information required by this subsection shall be available to the general public, as required by Title III, Emergency Planning and Community Right-to-Know, of the federal Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499.

3. On the Tier II form every employer shall provide the department, the local emergency planning committee, and the local fire protection service in which jurisdiction the employer's facility is located with the name and current address and telephone number of at least two individuals familiar with the kind, location, nature and approximate quantities of hazardous substances present in the facility who may be contacted in the event of an emergency.

4. All information required from the employer under sections 292.600 to 292.625 shall be updated each March first or more frequently if conditions change which may affect the ability of the fire protection service to respond effectively to an emergency occurring at the facility.

5. All information provided by the employer to the fire protection service, the local emergency planning committee, and the department as required by subsection 1 of this section shall be available to the general public from the fire protection service, local emergency planning committee or the department upon request. Any request for information shall be in writing. All requests for information shall be available during normal business hours for inspection by any affected employer. The fire protection service, the department or the local emergency planning committee may charge a fee sufficient to cover the actual cost of providing any requested information.

(L. 1985 H.B. 507 & 139 § 2, A.L. 1987 H.B. 655, A.L. 1988 S.B. 765, A.L. 1992 S.B. 480)

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[Missouri General Assembly](#)

Missouri Revised Statutes

Chapter 292

Health and Safety of Employees

Section 292.606

August 28, 2002

Fees, certain employers, how much, due when, late penalty --deductions--excess credited when-- agencies receiving funds, duties --use of funds, commission to establish criteria.

292.606. 1. Fees shall be collected for a period of twenty years from August 28, 1992.

2. (1) Any employer required to report under subsection 1 of section 292.605, except local governments and family-owned farm operations, shall submit an annual fee to the commission of one hundred dollars along with the Tier II form. Owners or operators of petroleum retail facilities shall pay a fee of no more than fifty dollars for each such facility. Any person, firm or corporation selling, delivering or transporting petroleum or petroleum products and whose primary business deals with petroleum products or who is covered by the provisions of chapter 323, RSMo, if such person, firm or corporation is paying fees under the provisions of the federal hazardous materials transportation registration and fee assessment program, shall deduct such federal fees from those fees owed to the state under the provisions of this subsection. If the federal fees exceed or are equal to what would otherwise be owed under this subsection, such employer shall not be liable for state fees under this subsection. In relation to petroleum products "primary business" shall mean that the person, firm or corporation shall earn more than fifty percent of hazardous chemical revenues from the sale, delivery or transport of petroleum products. For the purpose of calculating fees, all grades of gasoline are considered to be one product, all grades of heating oils, diesel fuels, kerosenes, naphthas, aviation turbine fuel, and all other heavy distillate products except for grades of gasoline, are considered to be one product, and all varieties of motor lubricating oil are considered to be one product. For the purposes of this section "facility" shall mean all buildings, equipment, structures and other stationary items that are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person. If more than three hazardous substances or mixtures are reported on the Tier II form, the employer shall submit an additional twenty-dollar fee for each hazardous substance or mixture. Fees collected under this subdivision shall be for each hazardous chemical on hand at any one time in excess of ten thousand pounds or for extremely hazardous substances on hand at any one time in excess of five hundred pounds or the threshold planning quantity, whichever is less, or for explosives or blasting agents on hand at any one time in excess of one hundred pounds. However, no employer shall pay more than ten thousand dollars per year in fees. Except moneys acquired through litigation shall not apply to this cap;

(2) Employers engaged in transporting hazardous materials by pipeline except local gas distribution companies regulated by the Missouri public service commission shall pay to the commission a fee of two hundred fifty dollars for each county in which they operate;

(3) Payment of fees is due each year by March first. A late fee of ten percent of the total owed, plus one percent per month of the total, may be assessed by the commission;

(4) If, on March first of each year, fees collected under this section and natural resources damages made available pursuant to section 640.235, RSMo, exceed one million dollars, any excess over one million dollars shall be proportionately credited to fees payable in the succeeding year by each employer who was required to pay a fee and who did pay a fee in the year in which the excess occurred. The limit of one million dollars contained herein shall be reviewed

by the commission concurrent with the review of fees as required in subsection 1 of this section.

3. Local emergency planning committees receiving funds under section 292.604 shall coordinate with the commission and the department in chemical emergency planning, training, preparedness, and response activities. Local emergency planning committees receiving funds under this section, section 260.394, RSMo, sections 292.602, 292.604, 292.605, 292.615 and section 640.235, RSMo, shall provide to the commission an annual report of expenditures and activities.

4. Fees collected by the department and all funds provided to local emergency planning committees shall be used for chemical emergency preparedness purposes as outlined in sections 292.600 to 292.625 and the federal act, including contingency planning for chemical releases; exercising, evaluating, and distributing plans, providing training related to chemical emergency preparedness and prevention of chemical accidents; identifying facilities required to report; processing the information submitted by facilities and making it available to the public; receiving and handling emergency notifications of chemical releases; operating a local emergency planning committee; and providing public notice of chemical preparedness activities. Local emergency planning committees receiving funds under this section may combine such funds with other local emergency planning committees to further the purposes of sections 292.600 to 292.625, or the federal act.

5. The commission shall establish criteria and guidance on how funds received by local emergency planning committees may be used.

(L. 1992 S.B. 480, A.L. 2001 H.B. 453)

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Missouri Revised Statutes

Chapter 292 Health and Safety of Employees Section 292.607

August 28, 2002

Chemical emergency preparedness fund established--reversion to general revenue, prohibited.

292.607. 1. The "Chemical Emergency Preparedness Fund" is hereby established. Funds appropriated under section 292.604, private donations, federal grants, contracts, and other funds provided to the commission and the department for distribution as provided in section 292.604 shall be placed in the chemical emergency preparedness fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, funds in the chemical emergency preparedness fund shall not revert to the general revenue fund. Interest accruing to the fund shall be part of the fund.

2. The chemical emergency preparedness fund shall, upon appropriation, be used to implement the provisions of sections 292.600 to 292.625.

(L. 1989 H.B. 77, et al.)

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Missouri Revised Statutes

Chapter 292 Health and Safety of Employees Section 292.610

August 28, 2002

Employer's trade secrets, department to protect--disclosure of by public employees and officers, penalty.

292.610. 1. Trade secret claims by an employer shall be made to the department and subj ect to the same protection as and treated in a manner similar to and authorized by Title III, Emergency Planning and Community Right-to-Know, of the federal Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499.

2. No officer, employee, or agent of any state or municipal department, agency, commission members, members and employees of district and local emergency planning committees, or authority shall disclose to anyone in any manner any record or portions thereof protected pursuant to the provisions of sections 292.600 to 292.625 and Title III, Emergency Response and Community Right-to-Know, of the federal Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499, which are within his custody or knowledge for as long as such record or portions thereof shall be so exempted or until a final j udicial denial of such exemption is rendered. Any person who violates any provision of this section commits the crime of misuse of official information and may be punished as provided in section 576.050, RSMo.

(L. 1985 H.B. 507 & 139 § 3, A.L. 1988 S.B. 765)

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Missouri Revised Statutes

Chapter 292

Health and Safety of Employees

Section 292.613

August 28, 2002

Rules and regulations, department to promulgate--procedure.

292.613. The department shall have the authority to promulgate, after public hearing, rules and regulations to carry out the provisions of sections 292.600 to 292.625 and to meet the reporting requirements of Title III, Emergency Planning and Community Right-to-Know, of the federal Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

(L. 1988 S.B. 765, A.L. 1993 S.B. 52, A.L. 1995 S.B. 3)

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Missouri Revised Statutes

Chapter 292

Health and Safety of Employees

Section 292.615

August 28, 2002

Violations, attorney general to bring action--jurisdiction, circuit court--penalties, limit, payable to general revenue--civil actions, by whom, why, commission approval--actions against local committee, by whom, why--access for investigation, procedure.

292.615. 1. The attorney general shall bring an action in circuit court against any employer knowingly and intentionally violating the provisions of sections 292.600 to 292.625. In any such action the circuit court shall have jurisdiction to restrain violations of the provisions of sections 292.600 to 292.625 and to levy appropriate penalties, including reasonable attorney's fees and costs, of not more than five thousand dollars per violation for each day of violation. Any civil penalty assessed for the violation of any of the provisions of sections 292.600 to 292.625 shall be payable to the general revenue fund.

2. The commission, local emergency planning committees or fire protection services may, on their own initiative or on behalf of any person, commence a civil action against an employer for failure to submit the required Tier II form after thirty days of such employer being notified by the commission that such employer is not in compliance. A local emergency planning committee or fire protection service commencing a civil action shall seek commission approval in advance of such action and cooperate with the commission and the department in the legal process. Any violations of section 260.394, RSMo, sections 292.602, 292.604, 292.605, 292.606, 292.615 and section 640.235, RSMo, shall constitute a class C misdemeanor.

3. Any employer, the department, or the Missouri emergency response commission may commence a civil action against a local emergency planning committee for failure to use fees collected under section 292.604 for the purposes specified in sections 292.600 to 292.625 or for use of fees collected under section 292.604 for purposes other than those specified in sections 292.600 to 292.625. The department and the commission may recover, by appropriate legal means, any funds spent inconsistent with the purposes specified in sections 292.600 to 292.625.

4. The Missouri emergency response commission may commence a civil action against a local emergency planning committee that fails to provide information as required in subsection 4 of section 292.606.

5. No person shall refuse entry or access for the purpose of investigating possible violations of sections 292.600 to 292.625 or the federal act by an authorized representative of the department who presents appropriate credentials, nor obstruct or hamper the representative. A suitably restricted search warrant, upon showing of probable cause in writing and upon oath, may upon application be issued by any court of competent jurisdiction to any such representative for the purpose of enabling the representative to investigate or respond to possible violations of sections 292.600 to 292.625 or the federal act.

(L. 1985 H. B. 507 & 139 § 4, A.L. 1987 H.B. 655, A.L. 1988 S.B. 765, A.L. 1992 S.B. 480)

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Missouri Revised Statutes

Chapter 292 **Health and Safety of Employees** **Section 292.617**

August 28, 2002

Explosive or blasting agents, temporary storage--notification of local fire department and certain others--content of report, exceptions --visible markings on buildings, rooms and containers, requirements, exceptions--motor vehicles, rolling stock and airplanes, markings by federal government.

292.617. 1. Owners and operators of facilities where one hundred pounds or more of explosives or blasting agents as defined in Title 49, Code of Federal Regulations, Part 173, Subpart C are temporarily stored shall file such reports as required under section 292.605 whenever such explosive materials are stored in a particular facility for more than fifteen days and each time such explosive materials are relocated to a new site for storage of more than fifteen days duration, except that when such explosive materials are stored in any facility for less than fifteen days such reports shall not be required and the facility owner or operator shall, within twenty-four hours of the arrival of such explosive materials at the facility, notify the local fire department in the jurisdiction where the facility is located that such explosive materials are temporarily stored in that facility and shall describe the contents and amount of the explosive materials stored therein. The provisions of this subsection concerning explosive materials shall apply to owners and operators of facilities where explosives are temporarily stored prior to use at that facility or location and shall not apply to storage by manufacturers and distributors prior to sale or to such material while in transit provided that the transporter is in compliance with the United States Department of Transportation regulation.

2. All facilities required to submit reports under sections 292.600 to 292.625, except those facilities having an emergency response policy or facilities located in a fire protection district or municipality having a fire protection code, shall provide visible markings on the outside of buildings, rooms and containers where hazardous substances are present. These markings shall conform to the National Fire Protection Association Standard Number 704 or with other federal laws or regulations, or in the case of containers, may as an option comply with Safety and Health Administration Hazard Communication Rule, 29 CFR 1910.1200(f). To avoid duplication of markings, marking requirements of the United States Department of Transportation shall satisfy the requirements in regard to motor vehicles, rolling stock and aircraft.

(L. 1989 H.B. 77, et al., A.L. 1990 S.B. 719)

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Missouri Revised Statutes

Chapter 292

Health and Safety of Employees

Section 292.623

August 28, 2002

Immunity from liability for official actions by members of commission and local emergency planning committee, exceptions.

292.623. Members of the Missouri emergency response commission and members of local emergency planning committees appointed by the commission shall not be liable for damages incurred as a result of actions taken by them when acting in their capacities pursuant to sections 292.600 to 292.625, or the federal act. This protection from liability shall not apply for acts or omissions which result from intentional wrongdoing or gross negligence.

(L. 1989 H.B. 77, et al.)

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Missouri Revised Statutes

Chapter 292 **Health and Safety of Employees** **Section 292.625**

August 28, 2002

Additional duties of department.

292.625. The department shall:

- (1) Exercise general supervision of the administration and enforcement of sections 292.600 to 292.625 and all rules and regulations adopted or issued hereunder;
- (2) Retain, employ, provide for and compensate, within appropriations available therefor, such personnel as may be necessary to carry out the provisions of sections 292.600 to 292.625;
- (3) Budget and receive duly appropriated moneys for expenditures to carry out the provisions of sections 292.600 to 292.625;
- (4) Accept, receive and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out the functions and responsibilities enumerated in sections 292.600 to 292.625. Funds received by the department pursuant to this section shall be deposited with the state treasurer and held and disbursed by him in accordance with the appropriations of the general assembly;
- (5) Work with local emergency planning committees to accomplish the purposes and objectives of sections 292.600 to 292.625.

(L. 1988 S.B. 765)

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