

SECOND REGULAR SESSION

HOUSE BILL NO. 1567

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES TOWNLEY (Sponsor), KUESSNER, SCHLOTTACH, TAYLOR, DETHROW, WILSON (130), HOBBS, BROWN, GUEST, BARNITZ, SEIGFREID, MAYER, CUNNINGHAM (145), RANSDALL, EMERY, WILSON (119), SHOEMAKER, PURGASON, ANGST, ENGLER, MAY, SELF AND KELLY (144) (Co-sponsors) .

Read 1st time February 25, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4658L.011

AN ACT

To repeal sections 444.765 and 444.770, RSMo, and to enact in lieu thereof two new sections relating to excavation activities of noncommercial operators.

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

Section A. Sections 444.765 and 444.770, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 444.765 and 444.770, to read as follows:

444.765. Wherever used or referred to in sections 444.760 to 444.790, unless a different
2 meaning clearly appears from the context, the following terms mean:

3 (1) "Affected land", the pit area or area from which overburden shall have been removed,
4 or upon which overburden has been deposited after September 28, 1971. When mining is
5 conducted underground, affected land means any excavation or removal of overburden required
6 to create access to mine openings, except that areas of disturbance encompassed by the actual
7 underground openings for air shafts, portals, adits and haul roads in addition to disturbances
8 within fifty feet of any openings for haul roads, portals or adits shall not be considered affected
9 land. Sites which exceed the excluded areas by more than one acre for underground mining
10 operations shall obtain a permit for the total extent of affected lands with no exclusions as
11 required under sections 444.760 to 444.790;

12 (2) "Commission", the land reclamation commission in the department of natural
13 resources;

14 (3) "Director", the staff director of the land reclamation commission;

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

15 (4) "Mineral", a constituent of the earth in a solid state which, when extracted from the
16 earth, is usable in its natural form or is capable of conversion into a usable form as a chemical,
17 an energy source, or raw material for manufacturing or construction material. For the purposes
18 of this section, this definition includes barite, tar sands, and oil shales, but does not include iron,
19 lead, zinc, gold, silver, coal, surface or subsurface water, fill dirt, natural oil or gas together with
20 other chemicals recovered therewith;

21 (5) **"Noncommercial operator", any person whose excavation activities are limited**
22 **to sites on privately owned farmland used for agricultural purposes, as defined in section**
23 **142.800, RSMo, or other property owned by private individuals used primarily for**
24 **purposes other than surface mining, and where seasonal gravel removal to manage gravel**
25 **accretion is conducted in accordance with the department guidelines;**

26 (6) "Operator", any person, firm or corporation engaged in and controlling a surface
27 mining operation;

28 [(6)] (7) "Overburden", all of the earth and other materials which lie above natural
29 deposits of minerals; and also means such earth and other materials disturbed from their natural
30 state in the process of surface mining other than what is defined in subdivision (4) of this section;

31 [(7)] (8) "Peak", a projecting point of overburden created in the surface mining process;

32 [(8)] (9) "Pit", the place where minerals are being or have been mined by surface mining;

33 [(9)] (10) "Refuse", all waste material directly connected with the cleaning and
34 preparation of substance mined by surface mining;

35 [(10)] (11) "Ridge", a lengthened elevation of overburden created in the surface mining
36 process;

37 [(11)] (12) "Site" or "mining site", any location or group of associated locations where
38 minerals are being surface mined by the same operator;

39 [(12)] (13) "Surface mining", the mining of minerals for commercial purposes by
40 removing the overburden lying above natural deposits thereof, and mining directly from the
41 natural deposits thereby exposed, and shall include mining of exposed natural deposits of such
42 minerals over which no overburden lies and, after August 28, 1990, the surface effects of
43 underground mining operations for such minerals.

444.770. 1. It shall be unlawful for any operator, **other than a noncommercial**
2 **operator**, to engage in surface mining without first obtaining from the commission a permit to
3 do so, in such form as is hereinafter provided, including any operator, **other than a**
4 **noncommercial operator**, involved in any gravel mining operation where the annual tonnage
5 of gravel mined by such operator is less than five thousand tons, **except when an operator**
6 **conducts gravel removal at the request of a property owner for the primary purpose of**
7 **managing seasonal gravel accretion on property not used primarily for gravel mining.**

8 **Such mining shall be conducted in accordance with department guidelines.**

9 2. Sections 444.760 to 444.790 shall apply only to those areas which are opened on or
10 after January 1, 1972, or to the extended portion of affected areas extended after that date. The
11 effective date of this section for minerals not previously covered under the provisions of sections
12 444.760 to 444.790 shall be August 28, 1990.

13 3. All surface mining operations where land is affected after September 28, 1971, which
14 are under the control of any government agency whose regulations are equal to or greater than
15 those imposed by section 444.774, are not subject to the further provisions of sections 444.760
16 to 444.790, except that such operations shall be registered with the land reclamation commission.

17 4. Any portion of a surface mining operation which is subject to the provisions of
18 sections 260.200 to 260.245, RSMo, and the regulations promulgated thereunder, shall not be
19 subject to the provisions of sections 444.760 to 444.790, and any bonds or portions thereof
20 applicable to such operations shall be promptly released by the commission, and the associated
21 permits canceled by the commission upon presentation to it of satisfactory evidence that the
22 operator has received a permit pursuant to section 260.205, RSMo, and the regulations
23 promulgated thereunder. Any land reclamation bond associated with such released permits shall
24 be retained by the commission until presentation to the commission of satisfactory evidence that:

25 (1) The operator has complied with sections 260.226 and 260.227, RSMo, and the
26 regulations promulgated thereunder, pertaining to closure and postclosure plans and financial
27 assurance instruments; and

28 (2) The operator has commenced operation of the solid waste disposal area or sanitary
29 landfill as those terms are defined in chapter 260, RSMo.

30 5. Notwithstanding the provisions of subsection 1 of this section, any political
31 subdivision which uses its own personnel and equipment or any private individual for personal
32 use may conduct in-stream gravel operations without obtaining from the commission a permit
33 to conduct such an activity.

34 **6. Notwithstanding the provisions of subsection 5 of this section, an operator or**
35 **landowner shall be allowed to sell or barter material extracted from the landowner's**
36 **property without a permit only when such excavation is conducted in accordance with**
37 **department guidelines for the management of seasonal gravel accretion.**