

FIRST REGULAR SESSION

HOUSE BILL NO. 166

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES MEADOWS (Sponsor) AND WILDBERGER (Co-sponsor).

Read 1st time January 5, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0201L.011

AN ACT

To repeal section 644.076, RSMo, and to enact in lieu thereof one new section relating to water contamination.

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

Section A. Section 644.076, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 644.076, to read as follows:

644.076. 1. It is unlawful for any person to cause or permit any discharge of water contaminants from any water contaminant or point source located in Missouri in violation of sections 644.006 to 644.141, or any standard, rule or regulation promulgated by the commission. In the event the commission or the director determines that any provision of sections 644.006 to 644.141 or standard, rules, limitations or regulations promulgated pursuant thereto, or permits issued by, or any final abatement order, other order, or determination made by the commission or the director, or any filing requirement pursuant to sections 644.006 to 644.141 or any other provision which this state is required to enforce pursuant to any federal water pollution control act, is being, was, or is in imminent danger of being violated, the commission or director may cause to have instituted a civil action in any court of competent jurisdiction for the injunctive relief to prevent any such violation or further violation or for the assessment of a penalty not to exceed ten thousand dollars per day for each day, or part thereof, the violation occurred and continues to occur, or both, as the court deems proper. A civil monetary penalty pursuant to this section shall not be assessed for a violation where an administrative penalty was assessed pursuant to section 644.079. The commission, the chair of a watershed district's board of trustees created under section 249.1150 or 249.1152, or the director may request either the attorney

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

17 general or a prosecuting attorney to bring any action authorized in this section in the name of the
18 people of the state of Missouri. Suit may be brought in any county where the defendant's
19 principal place of business is located or where the water contaminant or point source is located
20 or was located at the time the violation occurred. Any offer of settlement to resolve a civil
21 penalty pursuant to this section shall be in writing, shall state that an action for imposition of a
22 civil penalty may be initiated by the attorney general or a prosecuting attorney representing the
23 department pursuant to this section, and shall identify any dollar amount as an offer of settlement
24 which shall be negotiated in good faith through conference, conciliation and persuasion.

25 2. Any person who knowingly makes any false statement, representation or certification
26 in any application, record, report, plan, or other document filed or required to be maintained
27 pursuant to sections 644.006 to 644.141 or who falsifies, tampers with, or knowingly renders
28 inaccurate any monitoring device or method required to be maintained pursuant to sections
29 644.006 to 644.141 shall, upon conviction, be punished by a fine of not more than ten thousand
30 dollars, or by imprisonment for not more than six months, or by both.

31 3. Any person who willfully or negligently commits any violation set forth pursuant to
32 subsection 1 of this section shall, upon conviction, be punished by a fine of not less than [two
33 thousand five hundred] **five thousand** dollars nor more than [twenty-five] **fifty** thousand dollars
34 per day of violation, or by imprisonment for not [more] **less** than [one year] **three years**, or both.
35 Second and successive convictions for violation of the same provision of this section by any
36 person shall be punished by a fine of not more than [fifty] **one hundred** thousand dollars per day
37 of violation, or by imprisonment for not [more] **less** than [two] **four** years, or both.

38 4. The liabilities which shall be imposed pursuant to any provision of sections 644.006
39 to 644.141 upon persons violating the provisions of sections 644.006 to 644.141 or any standard,
40 rule, limitation, or regulation adopted pursuant thereto shall not be imposed due to any violation
41 caused by an act of God, war, strike, riot, or other catastrophe.