

FIRST REGULAR SESSION

HOUSE BILL NO. 824

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HOBBS.

Read 1st time March 17, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1906L.011

AN ACT

To repeal section 643.079, RSMo, and to enact in lieu thereof one new section relating to regulation of air contaminants.

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

Section A. Section 643.079, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 643.079, to read as follows:

643.079. 1. Any air contaminant source required to obtain a permit issued under sections 643.010 to 643.190 shall pay annually beginning April 1, 1993, a fee as provided herein. For the first year the fee shall be twenty-five dollars per ton of each regulated air contaminant emitted. Thereafter, the fee shall be annually set by the commission by rule and shall be at least twenty-five dollars per ton of regulated air contaminant emitted but not more than forty dollars per ton of regulated air contaminant emitted in the previous calendar year. The fee shall be set at an amount consistent with the need to fund the reasonable cost of administering sections 643.010 to 643.190, taking into account other moneys received pursuant to sections 643.010 to 643.190. For the purpose of determining the amount of air contaminant emissions on which the fees authorized under this section are assessed, a facility shall be considered one source under the definition of subsection 2 of section 643.078, except that a facility with multiple operating permits shall pay the emission fees authorized under this section separately for air contaminants emitted under each individual permit.

2. A source which produces charcoal from wood shall pay an annual emission fee under this subsection in lieu of the fee established in subsection 1 of this section. The fee shall be based upon a maximum fee of twenty-five dollars per ton and applied upon each ton of regulated

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 air contaminant emitted for the first four thousand tons of each contaminant emitted in the
18 amount established by the commission pursuant to subsection 1 of this section, reduced
19 according to the following schedule:

20 (1) For fees payable under this subsection in the years 1993 and 1994, the fee shall be
21 reduced by one hundred percent;

22 (2) For fees payable under this subsection in the years 1995, 1996 and 1997, the fee shall
23 be reduced by eighty percent;

24 (3) For fees payable under this subsection in the years 1998, 1999 and 2000, the fee shall
25 be reduced by sixty percent.

26 3. The fees imposed in subsection 2 of this section shall not be imposed or collected after
27 the year 2000 unless the general assembly reimposes the fee.

28 4. Each air contaminant source with a permit issued under sections 643.010 to 643.190
29 shall pay the fee for the first four thousand tons of each regulated air contaminant emitted each
30 year but no air contaminant source shall pay fees on total emissions of regulated air contaminants
31 in excess of twelve thousand tons in any calendar year. A permitted air contaminant source
32 which emitted less than one ton of all regulated pollutants shall pay a fee equal to the amount per
33 ton set by the commission. An air contaminant source which pays emission fees to a holder of
34 a certificate of authority issued pursuant to section 643.140 may deduct such fees from any
35 amount due under this section. The fees imposed in this section shall not be applied to carbon
36 oxide emissions. The fees imposed in subsection 1 and this subsection shall not be applied to
37 sulfur dioxide emissions from any Phase I affected unit subject to the requirements of Title IV,
38 section 404, of the federal Clean Air Act, as amended, 42 U.S.C. 7651, et seq., any sooner than
39 January 1, 2000. The fees imposed on emissions from Phase I affected units shall be consistent
40 with and shall not exceed the provisions of the federal Clean Air Act, as amended, and the
41 regulations promulgated thereunder. Any such fee on emissions from any Phase I affected unit
42 shall be reduced by the amount of the service fee paid by that Phase I affected unit pursuant to
43 subsection 8 of this section in that year. Any fees that may be imposed on Phase I sources shall
44 follow the procedures set forth in subsection 1 and this subsection and shall not be applied
45 retroactively.

46 5. Moneys collected under this section shall be transmitted to the director of revenue for
47 deposit in appropriate subaccounts of the natural resources protection fund created in section
48 640.220, RSMo. A subaccount shall be maintained for fees paid by air contaminant sources
49 which are required to be permitted under Title V of the federal Clean Air Act, as amended, 42
50 U.S.C. Section 7661, et seq., and used, upon appropriation, to fund activities by the department
51 to implement the operating permits program authorized by Title V of the federal Clean Air Act,
52 as amended. Another subaccount shall be maintained for fees paid by air contaminant sources

53 which are not required to be permitted under Title V of the federal Clean Air Act as amended,
54 and used, upon appropriation, to fund other air pollution control program activities. Another
55 subaccount shall be maintained for service fees paid under subsection 8 of this section by Phase
56 I affected units which are subject to the requirements of Title IV, section 404, of the federal
57 Clean Air Act Amendments of 1990, as amended, 42 U.S.C. 7651, and used, upon appropriation,
58 to fund air pollution control program activities. The provisions of section 33.080, RSMo, to the
59 contrary notwithstanding, moneys in the fund shall not revert to general revenue at the end of
60 each biennium. Interest earned by moneys in the subaccounts shall be retained in the
61 subaccounts. The [minimum and maximum limits for] per ton fees established under subsection
62 1 of this section may be adjusted annually, consistent with the need to fund the reasonable costs
63 of the program, by the same percentage as the percentage change in the general price level as
64 measured by the Consumer Price Index for all Urban Consumers for the United States, or its
65 successor index, as defined and officially recorded by the United States Department of Labor or
66 its successor agency, **but shall not be less than twenty-five dollars per ton of regulated air**
67 **contaminant not more than forty dollars per ton of regulated air contaminant.** The first
68 adjustment shall apply to moneys payable on April 1, 1994, and shall be based upon the general
69 price level for the twelve month period ending on August thirty-first of the previous calendar
70 year.

71 6. The department may initiate a civil action in circuit court against any air contaminant
72 source which has not remitted the appropriate fees within thirty days. In any judgment against
73 the source, the department shall be awarded interest at a rate determined pursuant to section
74 408.030, RSMo, and reasonable attorney's fees. In any judgment against the department, the
75 source shall be awarded reasonable attorney's fees.

76 7. The department shall not suspend or revoke a permit for an air contaminant source
77 solely because the source has not submitted the fees pursuant to this section.

78 8. Any Phase I affected unit which is subject to the requirements of Title IV, section 404,
79 of the federal Clean Air Act, as amended, 42 U.S.C. 7651, shall pay annually beginning April
80 1, 1993, and terminating December 31, 1999, a service fee for the previous calendar year as
81 provided herein. For the first year, the service fee shall be twenty-five thousand dollars for each
82 Phase I affected generating unit to help fund the administration of sections 643.010 to 643.190.
83 Thereafter, the service fee shall be annually set by the commission by rule, following public
84 hearing, based on an annual allocation prepared by the department showing the details of all
85 costs and expenses upon which such fees are based consistent with the department's reasonable
86 needs to administer and implement sections 643.010 to 643.190 and to fulfill its responsibilities
87 with respect to Phase I affected units, but such service fee shall not exceed twenty-five thousand
88 dollars per generating unit. Any such Phase I affected unit which is located on one or more

89 contiguous tracts of land with any Phase II generating unit that pays fees under subsection 1 or
90 subsection 2 of this section shall be exempt from paying service fees under this subsection. A
91 "contiguous tract of land" shall be defined to mean adjacent land, excluding public roads,
92 highways and railroads, which is under the control of or owned by the permit holder and operated
93 as a single enterprise.

94 9. The department of natural resources shall determine the fees due pursuant to this
95 section by the state of Missouri and its departments, agencies and institutions, including two- and
96 four-year institutions of higher education. The director of the department of natural resources
97 shall forward the various totals due to the joint committee on capital improvements and the
98 directors of the individual departments, agencies and institutions. The departments, as part of
99 the budget process, shall annually request by specific line item appropriation funds to pay said
100 fees and capital funding for projects determined to significantly improve air quality. If the
101 general assembly fails to appropriate funds for emissions fees as specifically requested, the
102 departments, agencies and institutions shall pay said fees from other sources of revenue or funds
103 available. The state of Missouri and its departments, agencies and institutions may receive
104 assistance from the small business technical assistance program established pursuant to section
105 643.173.