

SECOND REGULAR SESSION

HOUSE BILL NO. 1801

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WOOD .

Read 1st time February 16, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4876L.01I

AN ACT

To repeal section 393.900, RSMo, and to enact in lieu thereof five new sections relating to registering with the department of natural resources.

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

Section A. Section 393.900, RSMo, is repealed and five new sections enacted in lieu thereof, to be known as sections 324.760, 324.763, 324.766, 393.900, and 640.237, to read as follows:

324.760. As used in this section, the following terms shall mean:

- (1) "Commercial septage", materials, such as human excreta and wastewater, including bath and toilet waste, commercial laundry waste, commercial kitchen waste and other similar waste from establishment appurtenances, and wastes removed from a septic tank. Sewage and domestic sewage waste are further categorized as:**
 - (a) "Blackwater", waste carried off by toilets, urinals, and kitchen drains;**
 - (b) "Graywater", all domestic waste not covered in paragraph (a) of this subdivision, including bath, lavatory, laundry, and sink waste;**
- (2) "Commercial septage pumper", any corporation, limited liability company, partnership, or individual that removes commercial septage from a septic tank for the purpose of further treatment or disposal at another location;**
- (3) "Department", the department of natural resources;**
- (4) "Residential septage", materials, such as human excreta and wastewater, including bath and toilet waste, residential laundry waste, residential kitchen waste and**

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.

15 other similar waste from household or establishment appurtenances, and wastes removed
16 from a septic tank. Sewage and domestic sewage waste are further categorized as:

17 (a) "Blackwater", waste carried off by toilets, urinals, and kitchen drains;

18 (b) "Graywater", all domestic waste not covered in paragraph (a) of this
19 subdivision, including bath, lavatory, laundry, and sink waste;

20 (5) "Residential septage pumper", any corporation, limited liability company,
21 partnership, or individual that removes residential septage from a septic tank for the
22 purpose of further treatment or disposal at another location.

324.763. 1. (1) All residential or commercial septage pumpers operating in this
2 state shall register with the department. The registration shall be made upon a form
3 furnished by the department; shall include the residential or commercial septage pumper's
4 commercial name, postal and physical addresses, and telephone number; shall include a
5 list of all counties the residential or commercial septage pumper operates or intends to
6 operate in; shall provide the name of the owner or person upon whom process may be
7 served; shall contain a signed statement that all representations in the application are made
8 under oath or affirmation; and shall be accompanied by a fee, set by the department, at an
9 amount sufficient to recover the cost of processing registrations. The department shall
10 register any residential or commercial septage pumper upon submission to the department
11 of a registration form and fee, and shall provide the residential or commercial septage
12 pumper evidence of registration.

13 (2) The list of counties the residential or commercial septage pumper operates in
14 or intends to operate in, required under subdivision (1) of this subsection, shall not restrict
15 the residential or commercial septage pumper from operating in counties not appearing
16 on the list.

17 (3) It shall be the duty of the residential or commercial septage pumper to notify
18 the department of any changes in the information provided in the registration form.

19 2. A registration issued under subsection 1 of this section shall expire after four
20 years, and shall be renewable upon payment of a renewal fee to be set by the department.

21 3. Any residential or commercial septage pumper operating in this state shall
22 maintain a record of the sites from where the residential or commercial septage has been
23 removed. Upon request, the record shall be made available to the department, the
24 department of health and senior services, or any county health department during the
25 regular business hours at the physical address of the residential or commercial septage
26 pumper. The record shall include the following:

27 (1) The amount of the residential or commercial septage removed to the best
28 estimate of the residential or commercial septage pumper;

29 (2) The date or dates the residential or commercial septage pumper removed the
30 residential or commercial septage;

31 (3) The location where the residential or commercial septage pumper was taken;
32 and

33 (4) The date the residential or commercial septage was discharged. In the event the
34 residential or commercial septage was discharged to a municipal or private treatment
35 plant, the time of discharge shall be recorded.

36 4. In the event that any residential or commercial septage was land-applied, the
37 location of the land application shall be tied to an existing permit.

38 5. Beginning June 1, 2007, and each year thereafter, the department shall provide
39 an updated list of registered residential and commercial septage pumpers to each county
40 health department. The department may comply with this subsection by posting the list
41 on the Internet and giving notice of the posting to each county health department. Such
42 notice may be electronic.

 324.766. 1. The department shall promulgate rules necessary for the
2 implementation, administration, and enforcement of sections 324.760 to 324.763.

3 2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
4 that is created under the authority delegated in this section shall become effective only if
5 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
6 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
7 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,
8 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
9 held unconstitutional, then the grant of rulemaking authority and any rule proposed or
10 adopted after August 28, 2006, shall be invalid and void.

 393.900. 1. Nonprofit, membership corporations may be organized pursuant to sections
2 393.900 to 393.951 only for the purpose of supplying water for distribution, wholesale and
3 treatment services within the state of Missouri. Corporations which become subject to sections
4 393.900 to 393.951 are referred to in sections 393.900 to 393.951 as nonprofit water companies.
5 Five or more persons may organize a nonprofit water company pursuant to sections 393.900 to
6 393.951.

7 2. The articles of incorporation of a nonprofit water company shall recite in the caption
8 that they are executed pursuant to sections 393.900 to 393.951, shall be signed and
9 acknowledged in duplicate by at least five of the incorporators and shall state:

10 (1) The name of the company;

11 (2) The address of its principal office;

12 (3) The names and addresses of the incorporators;

13 (4) The number of years the company is to continue, which may be any number including
14 perpetuity;

15 (5) The legal description of the territory in which the company intends to operate;

16 (6) The names and addresses of the persons who shall constitute its first board of
17 directors;

18 (7) Whether the company chooses to operate pursuant to chapter 347, RSMo, or chapter
19 355, RSMo;

20 (8) The method chosen for distributing the assets of the company upon dissolution; and

21 (9) Any provisions not inconsistent with sections 393.900 to 393.951 deemed necessary
22 or advisable for the conduct of its business and affairs. Such articles of incorporation shall be
23 submitted to the secretary of state for filing.

24 **3. In areas not located within a rural water district or municipal water district, and**
25 **where wastewater treatment service is already provided by a nonprofit sewer company**
26 **organized under sections 393.175 and 393.825 to 393.861, the nonprofit sewer company**
27 **may operate as a member nonprofit water company upon vote by its membership with all**
28 **the powers granted under sections 393.900 to 393.951.**

640.237. No claim or assessment of any fine or penalty shall be allowed against a
2 **publicly owned wastewater treatment works for exceeding the limits of an applicable**
3 **National Pollution Discharge Elimination System Permit or state law if the excessive**
4 **discharge was caused by a sewage treatment malfunction due to the publicly owned**
5 **wastewater treatment works' acceptance of residential or commercial septage from a**
6 **residential or commercial septage pumper, registered under chapter 324, RSMo, provided**
7 **that when the malfunction occurred the publicly owned wastewater treatment works**
8 **responded in a reasonable manner to prohibit any additional environmental damage. The**
9 **publicly owned wastewater treatment works shall have the burden of proving that it acted**
10 **in a reasonable manner. Nothing in this section shall be construed to reduce any reporting**
11 **requirement to both the Missouri department of natural resources and the Environmental**
12 **Protection Agency for the plant failure.**

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