

SECOND REGULAR SESSION

HOUSE BILL NO. 1969

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES MUNZLINGER (Sponsor), MYERS AND HOBBS (Co-sponsors).

Read 1st time March 7, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5531L.01I

AN ACT

To repeal section 260.546, RSMo, and to enact in lieu thereof one new section relating to the payments of cleanup costs for anhydrous ammonia releases.

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

Section A. Section 260.546, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 260.546, to read as follows:

260.546. 1. In the event that a hazardous substance release occurs for which a political subdivision or volunteer fire protection association as defined in section 320.300, RSMo, provides emergency services, the person having control over a hazardous substance shall be liable for such reasonable cleanup costs incurred by the political subdivision or volunteer fire protection association. Such liability includes the cost of materials, supplies and contractual services actually used to secure an emergency situation. The liability may also include the cost for contractual services which are not routinely provided by the department or political subdivision or volunteer fire protection association. Such liability shall not include the cost of normal services which otherwise would have been provided. Such liability shall not include budgeted administrative costs or the costs for duplicate services if multiple response teams are requested by the department or political subdivision unless, in the opinion of the department or political subdivision, duplication of service was required to protect the public health and environment. Such liability shall be established upon receipt by the person having control of the spilled hazardous substance of an itemized statement of costs provided by the political subdivision.

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.

16 2. Full payment shall be made within thirty days of receipt of the cost statement unless
17 the person having control over the hazardous substance contests the amount of the costs pursuant
18 to this section. If the person having control over the hazardous substance elects to contest the
19 payment of such costs, he shall file an appeal with the director within thirty days of receipt of the
20 cost statement.

21 3. Upon receipt of such an appeal, the director shall notify the parties involved of the
22 appeal and collect such evidence from the parties involved as he deems necessary to make a
23 determination of reasonable cleanup costs. Within thirty days of notification of the appeal, the
24 director shall notify the parties of his decision. The director shall direct the person having
25 control over a hazardous substance to pay those costs he finds to be reasonable and appropriate.
26 The determination of the director shall become final thirty days after receipt of the notice by the
27 parties involved unless prior to such date one of the involved parties files a petition for judicial
28 review pursuant to chapter 536, RSMo.

29 4. The political subdivision or volunteer fire protection association may apply to the
30 department for reimbursement from the hazardous waste fund created in section 260.391 for the
31 costs for which the person having control over a hazardous substance shall be liable if the
32 political subdivision or volunteer fire protection association is able to demonstrate a need for
33 immediate relief for such costs and believes it will not receive prompt payment from the person
34 having control over a hazardous substance. When the liability owed to the political subdivision
35 or volunteer fire protection association by the person having control over a hazardous substance
36 is paid, the political subdivision or volunteer fire protection association shall reimburse the
37 department for any payment it has received from the hazardous waste fund. Such reimbursement
38 to a political subdivision or volunteer fire protection association by the department shall be paid
39 back to the department by the political subdivision or volunteer fire protection association within
40 that time limit imposed by the department notwithstanding failure of the person having control
41 over a hazardous substance to reimburse the political subdivision or volunteer fire protection
42 association within that time.

43 **5. Notwithstanding the provisions of this section to the contrary, any owner, as the**
44 **term is defined in section 537.297, RSMo, of anhydrous ammonia shall not be liable for**
45 **reasonable cleanup costs as a result of an anhydrous ammonia release caused by a**
46 **tamperer, as the term is defined in section 537.297, RSMo.**

✓