

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 976
93RD GENERAL ASSEMBLY

Reported from the Committee on Conservation and Natural Resources May 2, 2006 with recommendation that House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 976 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

4204L.10C

AN ACT

To repeal section 260.750, RSMo, and to enact in lieu thereof two new sections relating to the transportation of radioactive waste, with an emergency clause.

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

Section A. Section 260.750, RSMo, is repealed and two new sections, to be known as
2 sections 260.392 and 260.750, to read as follows:

260.392. 1. As used in this section, the following terms mean:

- 2 **(1) "Cask", all the components and systems associated with the container in which**
3 **spent fuel, high-level radioactive waste, highway route controlled quantity, or transuranic**
4 **radioactive waste are stored;**
5 **(2) "Entity", the generator, owner or company responsible for shipment of the**
6 **spent fuel, high-level radioactive waste, highway route controlled quantity shipments,**
7 **transuranic radioactive waste, or low-level radioactive waste;**
8 **(3) "High-level radioactive waste", the highly radioactive material resulting from**
9 **the reprocessing of spent nuclear fuel including liquid waste produced directly in**
10 **reprocessing and any solid material derived from such liquid waste that contains fission**

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.

11 products in sufficient concentrations, and other highly radioactive material that the
12 Nuclear Regulatory Commission has determined to be high-level radioactive waste
13 requiring permanent isolation;

14 (4) "Highway route controlled quantity", as defined in 49 CFR Part 173.403, as
15 amended, a quantity of radioactive material within a single package;

16 (5) "Low-level radioactive waste", any radioactive waste not classified as high-level
17 radioactive waste, transuranic radioactive waste, or spent nuclear fuel, and classified as
18 low-level radioactive waste by the U.S. Nuclear Regulatory Commission, consistent with
19 existing law. Shipment of all sealed sources and all naturally occurring radioactive
20 material given written approval for landfill disposal by the Missouri department of natural
21 resources under 10 CSR 80-3.010 are exempt from the provisions of this section. Any low-
22 level radioactive waste that has a radioactive half-life equal to or less than one hundred
23 twenty days is exempt from the provisions of this section;

24 (6) "Spent nuclear fuel", fuel that has been withdrawn from a nuclear reactor
25 following irradiation, the constituent elements of which have not been separated by
26 reprocessing;

27 (7) "State-funded institutions of higher education", any campus of any university
28 within the state of Missouri that receives state funding and has a nuclear research reactor;

29 (8) "Transuranic radioactive waste", defined in 40 CFR Part 191.02, as amended,
30 as waste containing more than one hundred nanocuries of alpha-emitting transuranic
31 isotopes with half-lives greater than twenty years, per gram of waste. For the purposes of
32 this section, transuranic waste shall not include:

33 (a) High-level radioactive wastes;

34 (b) Any waste determined by the Environmental Protection Agency with the
35 concurrence of the Environmental Protection Agency administrator, that does not need the
36 degree of isolation required by this section; or

37 (c) Any waste that the Nuclear Regulatory Commission has approved for disposal
38 on a case-by-case basis in accordance with 10 CFR Part 61, as amended.

39 2. Any entity that ships high-level radioactive waste, transuranic radioactive waste,
40 highway route controlled quantity shipments, spent nuclear fuel, or low-level radioactive
41 waste through or within the state shall be subject to the fees established in this subsection,
42 provided that no state-funded institution of higher education that ships nuclear waste shall
43 pay any such fee. These higher education institutions shall reimburse the Missouri state
44 highway patrol directly for all costs related to transport escorts. The fees for all other
45 shipments shall be:

46 (1) One thousand eight hundred dollars for each cask transported through or
47 within the state by truck of high-level radioactive waste, transuranic radioactive waste,
48 spent nuclear fuel or highway route controlled quantity shipments. All casks of high-level
49 radioactive waste, transuranic radioactive waste, spent nuclear fuel or highway route
50 controlled quantity shipments transported by truck are subject to a surcharge of twenty-
51 five dollars per mile for every mile over two hundred miles traveled within the state;

52 (2) One thousand three hundred dollars for the first cask and one hundred twenty-
53 five dollars for each additional cask for each rail transport through or within the state of
54 high-level radioactive waste, transuranic radioactive waste or spent nuclear fuel;

55 (3) One hundred twenty-five dollars for each truck or train transporting low-level
56 radioactive waste through or within the state. The department of natural resources may
57 accept an annual shipment fee as negotiated with a shipper or accept payment per
58 transport or shipment.

59 3. All revenue generated from the fees established in subsection 2 of this section
60 shall be deposited into the environmental radiation monitoring fund established in section
61 260.750 and shall be used by the department of natural resources to achieve the following
62 objectives and for purposes related to the transport or shipment of high-level radioactive
63 waste, transuranic radioactive waste, highway route controlled quantity shipments, spent
64 nuclear fuel, or low-level radioactive waste, including, but not limited to:

65 (1) Inspections, escorts, and security for waste shipment and planning;

66 (2) Coordination of emergency response capability;

67 (3) Education and training of state, county, and local emergency responders;

68 (4) Purchase and maintenance of necessary equipment and supplies for state,
69 county, and local emergency responders through grants or other funding mechanisms;

70 (5) Emergency responses to any transportation incident involving the high-level
71 radioactive waste, transuranic radioactive waste, highway route controlled quantity
72 shipments, spent nuclear fuel, or low-level radioactive waste;

73 (6) Oversight of any environmental remediation necessary resulting from an
74 incident involving a transport of high-level radioactive waste, transuranic radioactive
75 waste, highway route controlled quantity shipments, spent nuclear fuel, or low-level
76 radioactive waste. Reimbursement for oversight of any such incident shall not reduce or
77 eliminate the liability of any party responsible for the incident; such party may be liable
78 for full reimbursement to the state or payment of any other costs associated with the
79 cleanup of contamination related to a transportation incident;

80 (7) Administrative costs attributable to the state agencies which are incurred
81 through their involvement as it relates to the transport or shipping of high-level radioactive
82 waste, transuranic radioactive waste, highway route controlled quantity shipments, spent
83 nuclear fuel, or low-level radioactive waste through or within the state.

84 4. Nothing in this section shall preclude any other state agency from receiving
85 reimbursement from the department of natural resources and the environmental radiation
86 monitoring fund for services rendered that achieve the objectives and comply with the
87 provisions of this section.

88 5. The department of natural resources in coordination with the department of
89 health and senior services, and the department of public safety, may promulgate rules
90 necessary to carry out the provisions of this section.

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

99 7. All funds deposited in the environmental radiation monitoring fund through fees
100 established in subsection 2 of this section shall be utilized, subject to appropriation by the
101 general assembly, for the administration and enforcement of this section by the department
102 of natural resources. All interest earned by the monies in the fund shall accrue to the fund.

103 8. All fees shall be received by the department of natural resources prior to
104 transport.

105 9. Notice of any transport of high-level radioactive waste, transuranic radioactive
106 waste, highway route controlled quantity shipments, or spent nuclear fuel through or
107 within the state shall be provided by the shipper to the governor's designee for advanced
108 notification, as described in 10 CFR Parts 71 and 73, as amended, prior to such transport
109 entering the state. Notice of any transport of low-level radioactive waste through or within
110 the state shall be provided by the shipper to the Missouri department of natural resources
111 before such transport enters the state.

112 10. Any shipper who fails to pay a fee assessed under this section, or fails to provide
113 notice of a transport, shall be liable in a civil action for an amount not to exceed ten times
114 the amount assessed and not paid. The action shall be brought by the attorney general at

115 the request of the department of natural resources. If the action involves a facility
116 domiciled in the state, the action shall be brought in the circuit court of the county in which
117 the facility is located. If the action does not involve a facility domiciled in the state, the
118 action shall be brought in the circuit court of Cole county.

119 11. Beginning on December 31, 2007, and every two years thereafter, the
120 department of natural resources shall prepare and submit a report on activities of the
121 environmental radiation monitoring fund to the general assembly. This report shall
122 include information on fee income received and expenditures made by the state to enforce
123 and administer the provisions of this section.

124 12. The provisions of this section shall not apply to high-level radioactive waste,
125 transuranic radioactive waste, highway route controlled quantity shipments, spent nuclear
126 fuel, or low-level radioactive waste shipped by or for the federal government for military
127 or national defense purposes.

128 13. Under section 23.253, RSMo, of the Missouri Sunset Act:

129 (1) The provisions of the new program authorized under this section shall
130 automatically sunset six years after the effective date of this section unless reauthorized by
131 an act of the general assembly; and

132 (2) If such program is reauthorized, the program authorized under this section
133 shall automatically sunset twelve years after the effective date of the reauthorization of this
134 section; and

135 (3) This section shall terminate on September first of the calendar year immediately
136 following the calendar year in which the program authorized under this section is sunset.

260.750. 1. The department of natural resources shall develop an environmental
2 radiation monitoring program for the purpose of monitoring radioactivity in air, water, soil, plant
3 and animal life as necessary to insure the protection of the public health and safety of the
4 environment from radiation hazards.

5 2. There is hereby created within the state treasury an "Environmental Radiation
6 Monitoring Fund". In addition to general revenue, the department of natural resources is
7 authorized to accept and shall deposit in said fund all gifts, bequests, donations, or other moneys,
8 equipment, supplies, or services from any state, interstate or federal agency, or from any
9 institution, person, firm, or corporation, public or private **as well as fees collected under**
10 **subsection 2 of section 260.392.** This fund shall be used for the environmental radiation
11 monitoring program established in this section **and to administer and enforce the provisions**
12 **of section 260.392.**

Section B. Because immediate action is necessary to enable both the promulgation of
2 rules pertaining to the implementation of this act and to preserve the state's environment, section
3 A of this act is deemed necessary for the immediate preservation of the public health, welfare,
4 peace and safety, and is hereby declared to be an emergency act within the meaning of the
5 constitution, and section A of this act shall be in full force and effect upon its passage and
6 approval.

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