

FIRST REGULAR SESSION

HOUSE BILL NO. 782

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BIVINS (Sponsors), SATER, GUEST,
McGHEE AND MOORE (Co-sponsors).

Read 1st time February 7, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

1884L.01I

AN ACT

To repeal section 643.079, RSMo, and to enact in lieu thereof one new section relating to air pollution emission fees.

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Section A. Section 643.079, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 643.079, to read as follows: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 **every three years** 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. **If necessary, the commission may make annual adjustments to the fee by rule.** 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.

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 2. A source which produces charcoal from wood shall pay an annual emission fee under
16 this subsection in lieu of the fee established in subsection 1 of this section. The fee shall be
17 based upon a maximum fee of twenty-five dollars per ton and applied upon each ton of regulated
18 air contaminant emitted for the first four thousand tons of each contaminant emitted in the
19 amount established by the commission pursuant to subsection 1 of this section, reduced
20 according to the following schedule:

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

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

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

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

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

47 5. Moneys collected under this section shall be transmitted to the director of revenue for
48 deposit in appropriate subaccounts of the natural resources protection fund created in section
49 640.220, RSMo. A subaccount shall be maintained for fees paid by air contaminant sources
50 which are required to be permitted under Title V of the federal Clean Air Act, as amended, 42

51 U.S.C. Section 7661, et seq., and used, upon appropriation, to fund activities by the department
52 to implement the operating permits program authorized by Title V of the federal Clean Air Act,
53 as amended. Another subaccount shall be maintained for fees paid by air contaminant sources
54 which are not required to be permitted under Title V of the federal Clean Air Act as amended,
55 and used, upon appropriation, to fund other air pollution control program activities. Another
56 subaccount shall be maintained for service fees paid under subsection 8 of this section by Phase
57 I affected units which are subject to the requirements of Title IV, Section 404, of the federal
58 Clean Air Act Amendments of 1990, as amended, 42 U.S.C. 7651, and used, upon appropriation,
59 to fund air pollution control program activities. The provisions of section 33.080, RSMo, to the
60 contrary notwithstanding, moneys in the fund shall not revert to general revenue at the end of
61 each biennium. Interest earned by moneys in the subaccounts shall be retained in the
62 subaccounts. The per-ton fees established under subsection 1 of this section may be adjusted
63 annually, consistent with the need to fund the reasonable costs of the program, but shall not be
64 less than twenty-five dollars per ton of regulated air contaminant nor more than forty dollars per
65 ton of regulated air contaminant. The first adjustment shall apply to moneys payable on April
66 1, 1994, and shall be based upon the general price level for the twelve-month period ending on
67 August thirty-first of the previous calendar year.

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

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

75 8. Any Phase I affected unit which is subject to the requirements of Title IV, Section
76 404, of the federal Clean Air Act, as amended, 42 U.S.C. 7651, shall pay annually beginning
77 April 1, 1993, and terminating December 31, 1999, a service fee for the previous calendar year
78 as provided herein. For the first year, the service fee shall be twenty-five thousand dollars for
79 each Phase I affected generating unit to help fund the administration of sections 643.010 to
80 643.190. Thereafter, the service fee shall be annually set by the commission by rule, following
81 public hearing, based on an annual allocation prepared by the department showing the details of
82 all costs and expenses upon which such fees are based consistent with the department's
83 reasonable needs to administer and implement sections 643.010 to 643.190 and to fulfill its
84 responsibilities with respect to Phase I affected units, but such service fee shall not exceed
85 twenty-five thousand dollars per generating unit. Any such Phase I affected unit which is located
86 on one or more contiguous tracts of land with any Phase II generating unit that pays fees under

87 subsection 1 or subsection 2 of this section shall be exempt from paying service fees under this
88 subsection. A "contiguous tract of land" shall be defined to mean adjacent land, excluding public
89 roads, highways and railroads, which is under the control of or owned by the permit holder and
90 operated as a single enterprise.

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

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