

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 343
94TH GENERAL ASSEMBLY

Reported from the Special Committee on Agri-Business March 26, 2007 with recommendation that House Committee Substitute for House Bill No. 343 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

0763L.04C

AN ACT

To repeal section 260.546, RSMo, and to enact in lieu thereof one new section relating to hazardous substances.

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Section A. Section 260.546, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 260.546, to read as follows: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] **and necessary** costs incurred by the political subdivision or volunteer fire protection association **incurred while securing an emergency situation or cleaning up any hazardous substances**. Such liability includes the cost of materials[, **and** supplies [and contractual services] actually used to secure [an] **the** 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] **No later**

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 **than sixty days after the completion of the cleanup of the release of a hazardous substance**
16 **the political subdivision or volunteer fire protection association shall submit to the person**
17 having control of the spilled hazardous substance [of] an itemized statement of costs provided
18 by the political subdivision. **The statement of costs shall include but not be limited to an**
19 **explanation of why the costs were reasonable and necessary. The explanation shall**
20 **describe how such costs were not duplicative, did not include costs for normal services that**
21 **would otherwise have been provided, and why contractual services, if any, were utilized**
22 **in the response to the emergency situation.**

23 2. Full payment shall be made within thirty days of receipt of the cost statement unless
24 the person having control over the hazardous substance contests the amount of the costs pursuant
25 to this section. If the person having control over the hazardous substance elects to contest the
26 payment of such costs, [he] **such person** shall file an appeal with the director within thirty days
27 of receipt of the cost statement.

28 3. Upon receipt of such an appeal, the director shall notify the parties involved of the
29 appeal and collect such evidence from the parties involved as [he] **the director** deems necessary
30 to make a determination of reasonable cleanup costs. **The burden of proof shall be on the**
31 **political subdivision or volunteer fire protection district to document and justify such costs**
32 **allowed under subsection 1 of this section.** Within [thirty] **sixty** days of notification of the
33 appeal, the director shall notify the parties of his **or her** decision. The director shall direct the
34 person having control over a hazardous substance to pay those costs [he] **the director** finds to
35 be reasonable and appropriate. The determination of the director shall become final thirty days
36 after receipt of the notice by the parties involved unless prior to such date one of the involved
37 parties files a petition for judicial review pursuant to chapter 536, RSMo.

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

50 over a hazardous substance to reimburse the political subdivision or volunteer fire protection
51 association within that time.

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