

FIRST REGULAR SESSION

# HOUSE BILL NO. 252

## 94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES ROBB (Sponsor), McGHEE, STORCH,  
MOORE AND SATER (Co-sponsors).

Read 1st time January 4, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

1018L.01I

### AN ACT

To repeal section 260.750, RSMo, and to enact in lieu thereof two new sections relating to 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Section A. Section 260.750, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 260.392 and 260.750, to read as follows:

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

(1) "Cask", all the components and systems associated with the container in which spent nuclear fuel, high-level radioactive waste, highway route controlled quantity, or transuranic radioactive waste are stored;

(2) "Entity", the generator, owner, or company responsible for shipment of the spent nuclear fuel, high-level radioactive waste, highway route controlled quantity shipments, transuranic radioactive waste, or low-level radioactive waste;

(3) "High-level radioactive waste", the highly radioactive material resulting from the reprocessing of spent nuclear fuel including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations and other highly radioactive material that the United States Nuclear Regulatory Commission has determined to be high-level radioactive waste requiring permanent isolation;

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

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           (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 United States Nuclear Regulatory Commission consistent  
19 with existing law. Shipment of all sealed sources meeting the definition of low-level  
20 radioactive waste, shipment of low-level radioactive waste that are within a radius of no  
21 more than fifty miles from the point of origin, and all naturally occurring radioactive waste  
22 given written approval for landfill disposal by the department of natural resources under  
23 10 CSR 80.3.010 are exempt from the provisions of this section. Any low-level radioactive  
24 waste that has a radioactive half-life equal to or less than one hundred twenty days is  
25 exempt from the provisions of this section;

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

29           (7) "State-funded institutions of higher education", any campus of any university  
30 within this state that receives state funding and has a nuclear research reactor;

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

35           (a) High-level radioactive wastes;

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

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

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

48           (1) One thousand eight hundred dollars for each cask of high-level radioactive  
49 waste, transuranic radioactive waste, spent nuclear fuel, or highway route controlled  
50 quantity shipments transported through or within this state by truck. All casks of high-  
51 level radioactive waste, transuranic radioactive waste, spent nuclear fuel, or highway route

52 controlled quantity shipments transported by truck are subject to a surcharge of twenty-  
53 five dollars per mile for every mile over two hundred miles traveled in this state;

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

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

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

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

68 (2) Coordination of emergency response capability;

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

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

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

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

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

86 4. Nothing in this section shall preclude any other state agency from receiving  
87 reimbursement from the department of natural resources and the environmental radiation

88 monitoring fund for services rendered that achieve the objectives and comply with the  
89 provisions of this section.

90       **5. The department of natural resources in coordination with the department of**  
91 **health and senior services and the department of public safety may promulgate rules to**  
92 **implement the provisions of this section. Any rule or portion of a rule, as that term is**  
93 **defined in section 536.010, RSMo, that is created under the authority delegated in this**  
94 **section shall become effective only if it complies with and is subject to all of the provisions**  
95 **of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter**  
96 **536, RSMo, are nonseverable and if any of the powers vested with the general assembly**  
97 **under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul**  
98 **a rule are subsequently held unconstitutional, then the grant of rulemaking authority and**  
99 **any rule proposed or adopted after August 28, 2007, shall be invalid and void.**

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

105       **7. All fees shall be received by the department of natural resources prior to**  
106 **transport.**

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

114       **9. Any shipper who fails to pay a fee assessed under this section or fails to provide**  
115 **notice of transport shall be liable in a civil action for an amount not to exceed ten times the**  
116 **amount assessed and not paid. The action shall be brought by the attorney general at the**  
117 **request of the department of natural resources. If the action involves a facility domiciled**  
118 **in this state, the action shall be brought in the circuit court of the county in which the**  
119 **facility is located. If the action does not involve a facility domiciled in this state, the action**  
120 **shall be brought in the circuit court of Cole County.**

121       **10. Beginning December 31, 2008, and every two years thereafter, the department**  
122 **of natural resources shall prepare and submit a report on activities of the environmental**  
123 **radiation monitoring fund to the general assembly. This report shall include information**

124 on fee income received and expenditures made by the state to enforce and administer the  
125 provisions of this section.

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

130 **12. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:**

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

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

137 **(3) This section shall terminate on September first of the calendar year immediately**  
138 **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 section A of this act and to preserve the state's  
3 environment, section A of this act is deemed necessary for the immediate preservation of the  
4 public health, welfare, peace, and safety, and is hereby declared to be an emergency act within  
5 the meaning of the constitution, and section A of this act shall be in full force and effect upon  
6 its passage and approval.

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