

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 886**  
**94TH GENERAL ASSEMBLY**

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Reported from the Committee on Conservation and Natural Resources April 5, 2007 with recommendation that House Committee Substitute for House Bill No. 886 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

2143L.05C

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**AN ACT**

To repeal sections 260.200, 260.211, 260.212, 260.240, 260.247, 260.249, 260.250, 260.330, 260.335, 260.360, and 260.800, RSMo, and to enact in lieu thereof eleven new sections relating to solid wastes, with penalty provisions.

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

Section A. Sections 260.200, 260.211, 260.212, 260.240, 260.247, 260.249, 260.250,  
2 260.330, 260.335, 260.360, and 260.800, RSMo, are repealed and eleven new sections enacted  
3 in lieu thereof, to be known as sections 260.200, 260.211, 260.212, 260.240, 260.247, 260.249,  
4 260.250, 260.330, 260.335, 260.360, and 260.800, to read as follows:

260.200. 1. The following words and phrases when used in sections 260.200 to 260.345  
2 shall mean:

3 (1) "Alkaline-manganese battery" or "alkaline battery", a battery having a manganese  
4 dioxide positive electrode, a zinc negative electrode, an alkaline electrolyte, including  
5 alkaline-manganese button cell batteries intended for use in watches, calculators, and other  
6 electronic products, and larger-sized alkaline-manganese batteries in general household use;

7 (2) **"Bioreactor", a municipal solid waste disposal area or portion of a municipal**  
8 **solid waste disposal area where the controlled addition of liquid waste or water accelerates**  
9 **both the decomposition of waste and landfill gas generation;**

10 (3) "Button cell battery" or "button cell", any small alkaline-manganese or  
11 mercuric-oxide battery having the size and shape of a button;

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.

12           [(3)] (4) "City", any incorporated city, town, or village;

13           [(4)] (5) "Clean fill", uncontaminated soil, rock, sand, gravel, concrete, asphaltic  
14 concrete, cinderblocks, brick, minimal amounts of wood and metal, and inert solids as approved  
15 by rule or policy of the department for fill, reclamation or other beneficial use;

16           [(5)] (6) "Closure", the permanent cessation of active disposal operations, abandonment  
17 of the disposal area, revocation of the permit or filling with waste of all areas and volumes  
18 specified in the permit and preparing the area for long-term care;

19           [(6)] (7) "Closure plan", plans, designs and relevant data which specify the methods and  
20 schedule by which the operator will complete or cease disposal operations, prepare the area for  
21 long-term care, and make the area suitable for other uses, to achieve the purposes of sections  
22 260.200 to 260.345 and the regulations promulgated thereunder;

23           [(7)] (8) "Conference, conciliation and persuasion", a process of verbal or written  
24 communications consisting of meetings, reports, correspondence or telephone conferences  
25 between authorized representatives of the department and the alleged violator. The process shall,  
26 at a minimum, consist of one offer to meet with the alleged violator tendered by the department.  
27 During any such meeting, the department and the alleged violator shall negotiate in good faith  
28 to eliminate the alleged violation and shall attempt to agree upon a plan to achieve compliance;

29           **(9) "Construction and demolition waste", waste materials from the construction**  
30 **and demolition of residential, industrial, or commercial structures, but does not include**  
31 **materials defined as clean fill under this section;**

32           [(8)] (10) "Demolition landfill", a solid waste disposal area used for the controlled  
33 disposal of demolition wastes, construction materials, brush, wood wastes, soil, rock, concrete  
34 and inert solids insoluble in water;

35           [(9)] (11) "Department", the department of natural resources;

36           [(10)] (12) "Director", the director of the department of natural resources;

37           [(11)] (13) "District", a solid waste management district established under section  
38 260.305;

39           [(12)] (14) "Financial assurance instrument", an instrument or instruments, including,  
40 but not limited to, cash or surety bond, letters of credit, corporate guarantee or secured trust fund,  
41 submitted by the applicant to ensure proper closure and postclosure care and corrective action  
42 of a solid waste disposal area in the event that the operator fails to correctly perform closure and  
43 postclosure care and corrective action requirements, except that the financial test for the  
44 corporate guarantee shall not exceed one and one-half times the estimated cost of closure and  
45 postclosure. The form and content of the financial assurance instrument shall meet or exceed  
46 the requirements of the department. The instrument shall be reviewed and approved or  
47 disapproved by the attorney general;

48 [(13)] **(15)** "Flood area", any area inundated by the one hundred year flood event, or the  
49 flood event with a one percent chance of occurring in any given year;

50 [(14)] **(16)** "Household consumer", an individual who generates used motor oil through  
51 the maintenance of the individual's personal motor vehicle, vessel, airplane, or other machinery  
52 powered by an internal combustion engine;

53 [(15)] **(17)** "Household consumer used motor oil collection center", any site or facility  
54 that accepts or aggregates and stores used motor oil collected only from household consumers  
55 or farmers who generate an average of twenty-five gallons per month or less of used motor oil  
56 in a calendar year. This section shall not preclude a commercial generator from operating a  
57 household consumer used motor oil collection center;

58 [(16)] **(18)** "Household consumer used motor oil collection system", any used motor oil  
59 collection center at publicly owned facilities or private locations, any curbside collection of  
60 household consumer used motor oil, or any other household consumer used motor oil collection  
61 program determined by the department to further the purposes of sections 260.200 to 260.345;

62 [(17)] **(19)** "Infectious waste", waste in quantities and characteristics as determined by  
63 the department by rule, including isolation wastes, cultures and stocks of etiologic agents, blood  
64 and blood products, pathological wastes, other wastes from surgery and autopsy, contaminated  
65 laboratory wastes, sharps, dialysis unit wastes, discarded biologicals known or suspected to be  
66 infectious; provided, however, that infectious waste does not mean waste treated to department  
67 specifications;

68 [(18)] **(20)** "Lead-acid battery", a battery designed to contain lead and sulfuric acid with  
69 a nominal voltage of at least six volts and of the type intended for use in motor vehicles and  
70 watercraft;

71 [(19)] **(21)** "Major appliance", clothes washers and dryers, water heaters, trash  
72 compactors, dishwashers, conventional ovens, ranges, stoves, woodstoves, air conditioners,  
73 refrigerators and freezers;

74 [(20)] **(22)** "Mercuric-oxide battery" or "mercury battery", a battery having a  
75 mercuric-oxide positive electrode, a zinc negative electrode, and an alkaline electrolyte,  
76 including mercuric-oxide button cell batteries generally intended for use in hearing aids and  
77 larger size mercuric-oxide batteries used primarily in medical equipment;

78 [(21)] **(23)** "Minor violation", a violation which possesses a small potential to harm the  
79 environment or human health or cause pollution, was not knowingly committed, and is not  
80 defined by the United States Environmental Protection Agency as other than minor;

81 [(22)] **(24)** "Motor oil", any oil intended for use in a motor vehicle, as defined in section  
82 301.010, RSMo, train, vessel, airplane, heavy equipment, or other machinery powered by an  
83 internal combustion engine;

84 [(23)] **(25)** "Motor vehicle", as defined in section 301.010, RSMo;

85 [(24)] **(26)** "Operator" and "permittee", anyone so designated, and shall include cities,  
86 counties, other political subdivisions, authority, state agency or institution, or federal agency or  
87 institution;

88 [(25)] **(27)** "Permit modification", any permit issued by the department which alters or  
89 modifies the provisions of an existing permit previously issued by the department;

90 [(26)] **(28)** "Person", any individual, partnership, corporation, association, institution,  
91 city, county, other political subdivision, authority, state agency or institution, or federal agency  
92 or institution;

93 **(29) "Plasma arc technology", a process that converts electrical energy into thermal**  
94 **energy. This electric arc is created when an ionized gas transfers electric power between**  
95 **two or more electrodes;**

96 [(27)] **(30)** "Postclosure plan", plans, designs and relevant data which specify the  
97 methods and schedule by which the operator shall perform necessary monitoring and care for the  
98 area after closure to achieve the purposes of sections 260.200 to 260.345 and the regulations  
99 promulgated thereunder;

100 [(28)] **(31)** "Recovered materials", those materials which have been diverted or removed  
101 from the solid waste stream for sale, use, reuse or recycling, whether or not they require  
102 subsequent separation and processing;

103 [(29)] **(32)** "Recycled content", the proportion of fiber in a newspaper which is derived  
104 from postconsumer waste;

105 [(30)] **(33)** "Recycling", the separation and reuse of materials which might otherwise be  
106 disposed of as solid waste;

107 [(31)] **(34)** "Resource recovery", a process by which recyclable and recoverable material  
108 is removed from the waste stream to the greatest extent possible, as determined by the  
109 department and pursuant to department standards, for reuse or remanufacture;

110 [(32)] **(35)** "Resource recovery facility", a facility in which recyclable and recoverable  
111 material is removed from the waste stream to the greatest extent possible, as determined by the  
112 department and pursuant to department standards, for reuse or remanufacture;

113 [(33)] **(36)** "Sanitary landfill", a solid waste disposal area which accepts commercial and  
114 residential solid waste;

115 [(34)] **(37)** "Scrap tire", a tire that is no longer suitable for its original intended purpose  
116 because of wear, damage, or defect;

117 [(35)] **(38)** "Scrap tire collection center", a site where scrap tires are collected prior to  
118 being offered for recycling or processing and where fewer than five hundred tires are kept on site  
119 on any given day;

120 [(36)] **(39)** "Scrap tire end-user facility", a site where scrap tires are used as a fuel or fuel  
121 supplement or converted into a useable product. Baled or compressed tires used in structures,  
122 or used at recreational facilities, or used for flood or erosion control shall be considered an end  
123 use;

124 [(37)] **(40)** "Scrap tire generator", a person who sells tires at retail or any other person,  
125 firm, corporation, or government entity that generates scrap tires;

126 [(38)] **(41)** "Scrap tire processing facility", a site where tires are reduced in volume by  
127 shredding, cutting, or chipping or otherwise altered to facilitate recycling, resource recovery, or  
128 disposal;

129 [(39)] **(42)** "Scrap tire site", a site at which five hundred or more scrap tires are  
130 accumulated, but not including a site owned or operated by a scrap tire end-user that burns scrap  
131 tires for the generation of energy or converts scrap tires to a useful product;

132 [(40)] **(43)** "Solid waste", garbage, refuse and other discarded materials including, but  
133 not limited to, solid and semisolid waste materials resulting from industrial, commercial,  
134 agricultural, governmental and domestic activities, but does not include hazardous waste as  
135 defined in sections 260.360 to 260.432, recovered materials, overburden, rock, tailings, matte,  
136 slag or other waste material resulting from mining, milling or smelting;

137 [(41)] **(44)** "Solid waste disposal area", any area used for the disposal of solid waste from  
138 more than one residential premises, or one or more commercial, industrial, manufacturing,  
139 recreational, or governmental operations;

140 [(42)] **(45)** "Solid waste fee", a fee imposed pursuant to sections 260.200 to 260.345 and  
141 may be:

142 (a) A solid waste collection fee imposed at the point of waste collection; or

143 (b) A solid waste disposal fee imposed at the disposal site;

144 [(43)] **(46)** "Solid waste management area", a solid waste disposal area which also  
145 includes one or more of the functions contained in the definitions of recycling, resource recovery  
146 facility, waste tire collection center, waste tire processing facility, waste tire site or solid waste  
147 processing facility, excluding incineration;

148 [(44)] **(47)** "Solid waste management system", the entire process of managing solid waste  
149 in a manner which minimizes the generation and subsequent disposal of solid waste, including  
150 waste reduction, source separation, collection, storage, transportation, recycling, resource  
151 recovery, volume minimization, processing, market development, and disposal of solid wastes;

152 [(45)] **(48)** "Solid waste processing facility", any facility where solid wastes are salvaged  
153 and processed, including:

154 (a) A transfer station; or

155 (b) An incinerator which operates with or without energy recovery but excluding waste  
156 tire end-user facilities; or

157 (c) A material recovery facility which operates with or without composting; **or**

158 **(d) A plasma arc technology facility;**

159 [(46)] **(49)** "Solid waste technician", an individual who has successfully completed  
160 training in the practical aspects of the design, operation and maintenance of a permitted solid  
161 waste processing facility or solid waste disposal area in accordance with sections 260.200 to  
162 260.345;

163 [(47)] **(50)** "Tire", a continuous solid or pneumatic rubber covering encircling the wheel  
164 of any self-propelled vehicle not operated exclusively upon tracks, or a trailer as defined in  
165 chapter 301, RSMo, except farm tractors and farm implements owned and operated by a family  
166 farm or family farm corporation as defined in section 350.010, RSMo;

167 [(48)] **(51)** "Used motor oil", any motor oil which, as a result of use, becomes unsuitable  
168 for its original purpose due to loss of original properties or the presence of impurities, but used  
169 motor oil shall not include ethylene glycol, oils used for solvent purposes, oil filters that have  
170 been drained of free flowing used oil, oily waste, oil recovered from oil tank cleaning operations,  
171 oil spilled to land or water, or industrial nonlube oils such as hydraulic oils, transmission oils,  
172 quenching oils, and transformer oils;

173 [(49)] **(52)** "Utility waste landfill", a solid waste disposal area used for fly ash waste,  
174 bottom ash waste, slag waste and flue gas emission control waste generated primarily from the  
175 combustion of coal or other fossil fuels;

176 [(50)] **(53)** "Yard waste", leaves, grass clippings, yard and garden vegetation and  
177 Christmas trees. The term does not include stumps, roots or shrubs with intact root balls.

178 2. For the purposes of this section and sections 260.270 to [260.278] **260.279** and any  
179 rules in place as of August 28, 2005, or promulgated under said sections, the term "scrap" shall  
180 be used synonymously with and in place of "waste", as it applies only to scrap tires.

260.211. 1. A person commits the offense of criminal disposition of demolition waste  
2 [in the first degree] if he purposely or knowingly disposes of or causes the disposal of more than  
3 two thousand pounds or four hundred cubic feet of such waste [in violation of section 260.210]  
4 **on property in this state other than in a solid waste processing facility or solid waste**  
5 **disposal area having a permit as required by section 260.205, except as provided by**  
6 **subsection 2 of this section; provided that, this subsection shall not prohibit the use or**  
7 **require a solid waste permit for the use of solid wastes in normal farming operations or in**  
8 **the processing or manufacturing of other products in a manner that will not create a public**  
9 **nuisance or adversely affect public health and shall not prohibit the disposal of or require**  
10 **a solid waste permit for the disposal by an individual of solid wastes resulting from his or**

11 **her own residential activities on property owned or lawfully occupied by him or her when**  
12 **such wastes do not thereby create a public nuisance or adversely affect the public health.**

13 Demolition waste shall not include clean fill or vegetation. Criminal disposition of demolition  
14 waste [in the first degree] is a class [A misdemeanor] **D felony**. In addition to other penalties  
15 prescribed by law, a person convicted of criminal disposition of demolition waste [in the first  
16 degree] is subject to a fine not to exceed twenty thousand dollars, except as provided below. The  
17 magnitude of the fine shall reflect the seriousness or potential seriousness of the threat to human  
18 health and the environment posed by the violation, but shall not exceed twenty thousand dollars,  
19 except that if a court of competent jurisdiction determines that the person responsible for illegal  
20 disposal of demolition waste under this subsection did so for remuneration as a part of an  
21 ongoing commercial activity, the court shall set a fine which reflects the seriousness or potential  
22 threat to human health and the environment which at least equals the economic gain obtained by  
23 the person, and such fine may exceed the maximum established herein.

24       2. **Any person who purposely or knowingly disposes of or causes the disposal of**  
25 **more than two thousand pounds or four hundred cubic feet of his or her personal**  
26 **construction or demolition waste on his or her own property shall be guilty of a class C**  
27 **misdemeanor. If such person receives any amount of money, goods, or services in**  
28 **connection with permitting any other person to dispose of construction or demolition waste**  
29 **on his or her property, such person will be guilty of a class D felony.**

30       3. The court shall order any person convicted of illegally disposing of demolition waste  
31 upon his own property for remuneration to clean up such waste and, if he fails to clean up the  
32 waste or if he is unable to clean up the waste, the court may notify the county recorder of the  
33 county containing the illegal disposal site. The notice shall be designed to be recorded on the  
34 record.

35       [3. Any person who pleads guilty or is convicted of criminal disposition of demolition  
36 waste in the first degree a second or subsequent time shall be guilty of a class D felony, and  
37 subject to the penalties provided in subsection 1 of this section in addition to those penalties  
38 prescribed by law.

39       4. A person commits the offense of criminal disposition of demolition waste in the  
40 second degree if he purposely or knowingly disposes of or causes the disposal of less than the  
41 amount of demolition waste specified in subsection 1 of this section in violation of section  
42 260.210. Criminal disposition of demolition waste in the second degree is a class C  
43 misdemeanor.

44       5. In addition to other penalties prescribed by law, a person convicted of criminal  
45 disposition of demolition waste in the second degree is subject to a fine, and the magnitude of

46 the fine shall reflect the seriousness or potential seriousness of the threat to human health and  
47 the environment posed by the violation, but shall not exceed two thousand dollars.

48 6. Any person who pleads guilty or is convicted of criminal disposition of demolition  
49 waste in the second degree a second or subsequent time shall be guilty of a class D felony, and  
50 subject to the penalties provided in subsection 5 of this section in addition to those penalties  
51 prescribed by law.

52 7.] 4. The court may order restitution by requiring any person convicted under this  
53 section to clean up any demolition waste he illegally dumped and the court may require any such  
54 person to perform additional community service by cleaning up and properly disposing of  
55 demolition waste illegally dumped by other persons.

56 [8.] 5. The prosecutor of any county or circuit attorney of any city not within a county  
57 may, by information or indictment, institute a prosecution for any violation of the provisions of  
58 this section.

59 6. Any person shall be guilty of conspiracy as defined in section 564.016, RSMo, if  
60 he or she knows or should have known that his agent or employee has committed the acts  
61 described in sections 260.210 to 260.212 while engaged in the course of employment.

260.212. 1. A person commits the offense of criminal disposition of solid waste [in the  
2 first degree] if he purposely or knowingly disposes of or causes the disposal of more than five  
3 hundred pounds or one hundred cubic feet of commercial or residential solid waste [on any  
4 property in this state other than a sanitary landfill in violation of section 260.210] **on any  
5 property in this state other than a solid waste processing facility or solid waste disposal  
6 area having a permit as required by section 260.205; provided that, this subsection shall  
7 not prohibit the use or require a solid waste permit for the use of solid wastes in normal  
8 farming operations or in the processing or manufacturing of other products in a manner  
9 that will not create a public nuisance or adversely affect the public health and shall not  
10 prohibit the disposal of or require a solid waste permit for the disposal by an individual  
11 of solid wastes resulting from his or her own residential activities on property owned or  
12 lawfully occupied by him or her when such wastes do not thereby create a public nuisance  
13 or adversely affect the public health.** Criminal disposition of solid waste [in the first degree]  
14 is a class [A misdemeanor] **D felony**. In addition to other penalties prescribed by law, a person  
15 convicted of criminal disposition of solid waste [in the first degree] is subject to a fine, and the  
16 magnitude of the fine shall reflect the seriousness or potential seriousness of the threat to human  
17 health and the environment posed by the violation, but shall not exceed twenty thousand dollars,  
18 except that if a court of competent jurisdiction determines that the person responsible for illegal  
19 disposal of solid waste under this subsection did so for remuneration as a part of an ongoing  
20 commercial activity, the court shall set a fine which reflects the seriousness or potential threat



21 to human health and the environment which at least equals the economic gain obtained by the  
22 person, and such fine may exceed the maximum established herein.

23         2. The court shall order any person convicted of illegally disposing of solid waste upon  
24 his own property for remuneration to clean up such waste and, if he fails to clean up the waste  
25 or if he is unable to clean up the waste, the court may notify the county recorder of the county  
26 containing the illegal disposal site. The notice shall be designed to be recorded on the record.

27         3. [Any person who pleads guilty or is convicted of criminal disposition of solid waste  
28 in the first degree a second or subsequent time shall be guilty of a class D felony. If a court of  
29 competent jurisdiction determines that the person responsible for illegal disposal of solid waste  
30 under this subsection did so for remuneration as a part of an ongoing commercial activity, the  
31 court shall set a fine which reflects the seriousness or potential threat to human health and the  
32 environment which equals at least three times the economic gain obtained by the person, and  
33 such fine may exceed the maximum established in this section.

34         4. A person commits the offense of criminal disposition of solid waste in the second  
35 degree if he purposely or knowingly disposes of or causes the disposal of less than the amount  
36 of commercial or residential solid waste specified in subsection 1 of this section on any property  
37 in this state other than a permitted sanitary landfill in violation of section 260.210. Criminal  
38 disposition of solid waste in the second degree is a class C misdemeanor.

39         5. In addition to other penalties prescribed by law, a person convicted of criminal  
40 disposition of solid waste in the second degree is subject to a fine, and the magnitude of the fine  
41 shall reflect the seriousness or potential seriousness of the threat to human health and the  
42 environment posed by the violation, but shall not exceed two thousand dollars.

43         6. Any person who pleads guilty or is convicted of criminal disposition of solid waste  
44 in the second degree a second or subsequent time shall be guilty of a class D felony. If a court  
45 of competent jurisdiction determines that the person responsible for illegal disposal of solid  
46 waste under this subsection did so for remuneration as a part of an ongoing commercial activity,  
47 the court shall set a fine which reflects the seriousness or potential threat to human health and  
48 the environment which equals at least three times the economic gain obtained by the person, and  
49 such fine may exceed the maximum established in this subsection.

50         7.] The court may order restitution by requiring any person convicted under this section  
51 to clean up any commercial or residential solid waste he illegally dumped and the court may  
52 require any such person to perform additional community service by cleaning up commercial or  
53 residential solid waste illegally dumped by other persons.

54         [8.] 4. The prosecutor of any county or circuit attorney of any city not within a county  
55 may, by information or indictment, institute a prosecution for any violation of the provisions of  
56 this section.

57 [9.] 5. Any person shall be guilty of conspiracy as defined in section 564.016, RSMo,  
58 if he knows or should have known that his agent or employee has committed the acts described  
59 in sections 260.210 to 260.212 while engaged in the course of employment.

260.240. 1. In the event the director determines that any provision of sections 260.200  
2 to 260.245 **and 260.330** or any standard, rule, regulation, final order or approved plan  
3 promulgated pursuant thereto is being, was, or is in imminent danger of being violated, the  
4 director may, in addition to those remedies provided in section 260.230, cause to have instituted  
5 a civil action in any court of competent jurisdiction for injunctive relief to prevent any such  
6 violation or further violation or in the case of violations concerning a solid waste disposal area  
7 or a solid waste processing facility, for the assessment of a penalty not to exceed one thousand  
8 dollars per day for each day, or part thereof, the violation occurred and continues to occur, or  
9 both, as the court deems proper **or in the case of violations concerning a solid waste disposal**  
10 **area and in the case of a violation of section 260.330 by a solid waste processing facility, for**  
11 **the assessment of a penalty not to exceed five thousand dollars per day, or part thereof, the**  
12 **violation occurred and continues to occur, or both, as the court deems proper.** A civil  
13 monetary penalty under this section shall not be assessed for a violation where an administrative  
14 penalty was assessed under section 260.249. The director may request either the attorney general  
15 or a prosecuting attorney to bring any action authorized in this section in the name of the people  
16 of the state of Missouri. Suit can be brought in any county where the defendant's principal place  
17 of business is located or where the violation occurred. Any offer of settlement to resolve a civil  
18 penalty under this section shall be in writing, shall state that an action for imposition of a civil  
19 penalty may be initiated by the attorney general or a prosecuting attorney representing the  
20 department under authority of this section, and shall identify any dollar amount as an offer of  
21 settlement which shall be negotiated in good faith through conference, conciliation and  
22 persuasion.

23 2. Any rule, regulation, standard or order of a county commission, adopted pursuant to  
24 the provisions of sections 260.200 to 260.245, may be enforced in a civil action for mandatory  
25 or prohibitory injunctive relief or for the assessment of a penalty not to exceed [one] **five**  
26 **hundred** dollars per day for each day, or part thereof, that a violation of such rule, regulation,  
27 standard or order of a county commission occurred and continues to occur, or both, as the  
28 commission deems proper. The county commission may request the prosecuting attorney or  
29 other attorney to bring any action authorized in this section in the name of the people of the state  
30 of Missouri.

31 3. The liabilities imposed by this section shall not be imposed due to any violation  
32 caused by an act of God, war, strike, riot or other catastrophe.

260.247. 1. Any city **or political subdivision** which annexes an area or enters into or expands solid waste collection services into an area where the collection of solid waste is presently being provided by one or more private entities, **for commercial or residential services**, shall notify the private entity or entities of its intent to provide solid waste collection services in the area by certified mail.

2. A city **or political subdivision** shall not commence solid waste collection in such area for at least two years from the effective date of the annexation or at least two years from the effective date of the notice that the city **or political subdivision** intends to enter into the business of solid waste collection or to expand existing solid waste collection services into the area, unless the city **or political subdivision** contracts with the private entity or entities to continue such services for that period. **If for any reason the city or political subdivision does not exercise its option to provide for or contract for the provision of services within an affected area within three years from the effective date of the notice, then the city or political subdivision shall renotify under subsection 1 of this section.**

3. If the services to be provided under a contract with the city **or political subdivision** pursuant to subsection 2 of this section are substantially the same as the services rendered in the area prior to the decision of the city to annex the area or to enter into or expand its solid waste collection services into the area, the amount paid by the city shall be at least equal to the amount the private entity or entities would have received for providing such services during that period.

4. Any private entity or entities which provide collection service in the area which the city **or political subdivision** has decided to annex or enter into or expand its solid waste collection services into shall make available upon written request by the city not later than thirty days following such request, all information in its possession or control which pertains to its activity in the area necessary for the city to determine the nature and scope of the potential contract.

5. The provisions of this section shall apply to private entities that service fifty or more residential accounts or [fifteen or more] **any** commercial accounts in the area in question.

260.249. 1. In addition to any other remedy provided by law, upon a determination by the director that a provision of sections 260.200 to 260.281, or a standard, limitation, order, rule or regulation promulgated pursuant thereto, or a term or condition of any permit has been violated, the director may issue an order assessing an administrative penalty upon the violator under this section. An administrative penalty shall not be imposed until the director has sought to resolve the violations through conference, conciliation and persuasion and shall not be imposed for minor violations of sections 260.200 to 260.281 or minor violation of any standard, limitation, order, rule or regulation promulgated pursuant to sections 260.200 to 260.281 or minor violations of any term or condition of a permit issued pursuant to sections 260.200 to

10 260.281 or any violations of sections 260.200 to 260.281 by any person resulting from  
11 mismanagement of solid waste generated and managed on the property of the place of residence  
12 of the person. If the violation is resolved through conference, conciliation and persuasion, no  
13 administrative penalty shall be assessed unless the violation has caused, or has the potential to  
14 cause, a risk to human health or to the environment, or has caused or has potential to cause  
15 pollution, or was knowingly committed, or is defined by the United States Environmental  
16 Protection Agency as other than minor. Any order assessing an administrative penalty shall state  
17 that an administrative penalty is being assessed under this section and that the person subject to  
18 the penalty may appeal as provided by section 260.235. Any such order that fails to state the  
19 statute under which the penalty is being sought, the manner of collection or rights of appeal shall  
20 result in the state's waiving any right to collection of the penalty.

21       2. The department shall promulgate rules and regulations for the assessment of  
22 administrative penalties. The amount of the administrative penalty assessed per day of violation  
23 for each violation under this section shall not exceed the amount of the civil penalty specified  
24 in section [260.230] **260.240**. Such rules shall reflect the criteria used for the administrative  
25 penalty matrix as provided for in the Resource Conservation and Recovery Act, 42 U.S.C.  
26 6928(a), Section 3008(a), and the harm or potential harm which the violation causes, or may  
27 cause, the violator's previous compliance record, and any other factors which the department may  
28 reasonably deem relevant. An administrative penalty shall be paid within sixty days from the  
29 date of issuance of the order assessing the penalty. Any person subject to an administrative  
30 penalty may appeal as provided in section 260.235. Any appeal will stay the due date of such  
31 administrative penalty until the appeal is resolved. Any person who fails to pay an  
32 administrative penalty by the final due date shall be liable to the state for a surcharge of fifteen  
33 percent of the penalty plus ten percent per annum on any amounts owed. Any administrative  
34 penalty paid pursuant to this section shall be handled in accordance with section 7 of article IX  
35 of the state constitution. An action may be brought in the appropriate circuit court to collect any  
36 unpaid administrative penalty, and for attorney's fees and costs incurred directly in the collection  
37 thereof.

38       3. An administrative penalty shall not be increased in those instances where department  
39 action, or failure to act, has caused a continuation of the violation that was a basis for the penalty.  
40 Any administrative penalty must be assessed within two years following the department's initial  
41 discovery of such alleged violation, or from the date the department in the exercise of ordinary  
42 diligence should have discovered such alleged violation.

43       4. The state may elect to assess an administrative penalty, or, in lieu thereof, to request  
44 that the attorney general or prosecutor file an appropriate legal action seeking a civil penalty in  
45 the appropriate circuit court.

46           5. Any final order imposing an administrative penalty is subject to judicial review upon  
47 the filing of a petition pursuant to section 536.100, RSMo, by any person subject to the  
48 administrative penalty.

260.250. 1. After January 1, 1991, major appliances, waste oil and lead-acid batteries  
2 shall not be disposed of in a solid waste disposal area. After January 1, 1992, yard waste shall  
3 not be disposed of in a solid waste disposal area, **except as otherwise provided in this**  
4 **subsection. After August 28, 2007, yard waste may be disposed of in a municipal solid**  
5 **waste disposal area or portion of a municipal solid waste disposal area provided that:**

6           (1) **The department has approved the municipal solid waste disposal area or**  
7 **portion of a solid waste disposal area to operate as a bioreactor under 40 CFR Part 258.4;**  
8 **and**

9           (2) **The landfill gas produced by the bioreactor will be used for the generation of**  
10 **electricity.**

11           2. After January 1, 1991, waste oil shall not be incinerated without energy recovery.

12           3. Each district, county and city shall address the recycling, reuse and handling of  
13 aluminum containers, glass containers, newspapers, whole tires, plastic beverage containers and  
14 steel containers in its solid waste management plan consistent with sections 260.250 to 260.345.

260.330. 1. Except as otherwise provided in subsection 6 of this section, effective  
2 October 1, 1990, each operator of a solid waste sanitary landfill shall collect a charge equal to  
3 one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted and each  
4 operator of the solid waste demolition landfill shall collect a charge equal to one dollar per ton  
5 or its volumetric equivalent of solid waste accepted. Each operator shall submit the charge, less  
6 collection costs, to the department of natural resources for deposit in the "Solid Waste  
7 Management Fund" which is hereby created. On October 1, 1992, and thereafter, the charge  
8 imposed herein shall be adjusted annually by the same percentage as the increase in the general  
9 price level as measured by the Consumer Price Index for All Urban Consumers for the United  
10 States, or its successor index, as defined and officially recorded by the United States Department  
11 of Labor or its successor agency. No annual adjustment shall be made to the charge imposed  
12 under this subsection during October 1, 2005, to October 1, [2009] **2014**, except an adjustment  
13 amount consistent with the need to fund the operating costs of the department and taking into  
14 account any annual percentage increase in the total of the volumetric equivalent of solid waste  
15 accepted in the prior year at solid waste sanitary landfills and demolition landfills and solid waste  
16 to be transported out of this state for disposal that is accepted at transfer stations. No annual  
17 increase during October 1, 2005, to October 1, [2009] **2014**, shall exceed the percentage increase  
18 measured by the Consumer Price Index for All Urban Consumers for the United States, or its  
19 successor index, as defined and officially recorded by the United States Department of Labor or

20 its successor agency and calculated on the percentage of revenues dedicated under subdivision  
21 (1) of subsection 2 of section 260.335. Any such annual adjustment shall only be made at the  
22 discretion of the director, subject to appropriations. Collection costs shall be established by the  
23 department and shall not exceed two percent of the amount collected pursuant to this section.

24         2. The department shall, by rule and regulation, provide for the method and manner of  
25 collection.

26         3. The charges established in this section shall be enumerated separately from the  
27 disposal fee charged by the landfill and may be passed through to persons who generated the  
28 solid waste. Moneys shall be transmitted to the department shall be no less than the amount  
29 collected less collection costs and in a form, manner and frequency as the department shall  
30 prescribe. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in  
31 the account shall not lapse to general revenue at the end of each biennium. Failure to collect the  
32 charge does not relieve the operator from responsibility for transmitting an amount equal to the  
33 charge to the department.

34         4. The department may examine or audit financial records and landfill activity records  
35 and measure landfill usage to verify the collection and transmittal of the charges established in  
36 this section. The department may promulgate by rule and regulation procedures to ensure and  
37 to verify that the charges imposed herein are properly collected and transmitted to the  
38 department.

39         5. Effective October 1, 1990, any person who operates a transfer station in Missouri shall  
40 transmit a fee to the department for deposit in the solid waste management fund which is equal  
41 to one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted. Such  
42 fee shall be applicable to all solid waste to be transported out of the state for disposal. On  
43 October 1, 1992, and thereafter, the charge imposed herein shall be adjusted annually by the  
44 same percentage as the increase in the general price level as measured by the Consumer Price  
45 Index for All Urban Consumers for the United States, or its successor index, as defined and  
46 officially recorded by the United States Department of Labor or its successor agency. No annual  
47 adjustment shall be made to the charge imposed under this subsection during October 1, 2005,  
48 to October 1, [2009] **2014**, except an adjustment amount consistent with the need to fund the  
49 operating costs of the department and taking into account any annual percentage increase in the  
50 total of the volumetric equivalent of solid waste accepted in the prior year at solid waste sanitary  
51 landfills and demolition landfills and solid waste to be transported out of this state for disposal  
52 that is accepted at transfer stations. No annual increase during October 1, 2005, to October 1,  
53 [2009] **2014**, shall exceed the percentage increase measured by the Consumer Price Index for All  
54 Urban Consumers for the United States, or its successor index, as defined and officially recorded  
55 by the United States Department of Labor or its successor agency and calculated on the

56 percentage of revenues dedicated under subdivision (1) of subsection 2 of section 260.335. Any  
57 such annual adjustment shall only be made at the discretion of the director, subject to  
58 appropriations. The department shall prescribe rules and regulations governing the transmittal  
59 of fees and verification of waste volumes transported out of state from transfer stations.  
60 Collection costs shall also be established by the department and shall not exceed two percent of  
61 the amount collected pursuant to this subsection. A transfer station with the sole function of  
62 separating materials for recycling or resource recovery activities shall not be subject to the fee  
63 imposed in this subsection.

64         6. Each political subdivision which owns an operational solid waste disposal area may  
65 designate, pursuant to this section, up to two free disposal days during each calendar year. On  
66 any such free disposal day, the political subdivision shall allow residents of the political  
67 subdivision to dispose of any solid waste which may be lawfully disposed of at such solid waste  
68 disposal area free of any charge, and such waste shall not be subject to any state fee pursuant to  
69 this section. Notice of any free disposal day shall be posted at the solid waste disposal area site  
70 and in at least one newspaper of general circulation in the political subdivision no later than  
71 fourteen days prior to the free disposal day.

260.335. 1. Each fiscal year eight hundred thousand dollars from the solid waste  
2 management fund shall be made available, upon appropriation, to the department and the  
3 environmental improvement and energy resources authority to fund activities that promote the  
4 development and maintenance of markets for recovered materials. Each fiscal year up to two  
5 hundred thousand dollars from the solid waste management fund be used by the department upon  
6 appropriation for grants to solid waste management districts for district grants and district  
7 operations. Only those solid waste management districts that are allocated fewer funds under  
8 subsection 2 of this section than if revenues had been allocated based on the criteria in effect in  
9 this section on August 27, 2004, are eligible for these grants. An eligible district shall receive  
10 a proportionate share of these grants based on that district's share of the total reduction in funds  
11 for eligible districts calculated by comparing the amount of funds allocated under subsection 2  
12 of this section with the amount of funds that would have been allocated using the criteria in  
13 effect in this section on August 27, 2004. The department and the authority shall establish a joint  
14 interagency agreement with the department of economic development to identify state priorities  
15 for market development and to develop the criteria to be used to judge proposed projects.  
16 Additional moneys may be appropriated in subsequent fiscal years if requested. The authority  
17 shall establish a procedure to measure the effectiveness of the grant program under this  
18 subsection and shall provide a report to the governor and general assembly by January fifteenth  
19 of each year regarding the effectiveness of the program.

20           2. All remaining revenues deposited into the fund each fiscal year after moneys have  
21 been made available under subsection 1 of this section shall be allocated as follows:

22           (1) Thirty-nine percent of the revenues shall be dedicated, upon appropriation, to the  
23 elimination of illegal solid waste disposal, to identify and prosecute persons disposing of solid  
24 waste illegally, to conduct solid waste permitting activities, to administer grants and perform  
25 other duties imposed in sections 260.200 to 260.345 and section 260.432. In addition to the  
26 thirty-nine percent of the revenues, the department may receive any annual increase in the charge  
27 during October 1, 2005, to October 1, [2009] **2014**, under section 260.330 and such increases  
28 shall be used solely to fund the operating costs of the department;

29           (2) Sixty-one percent of the revenues, except any annual increases in the charge under  
30 section 260.330 during October 1, 2005, to October 1, [2009] **2014**, which shall be used solely  
31 to fund the operating costs of the department, shall be allocated through grants, upon  
32 appropriation, to participating cities, counties, and districts. Revenues to be allocated under this  
33 subdivision shall be divided as follows: forty percent shall be allocated based on the population  
34 of each district in the latest decennial census, and sixty percent shall be allocated based on the  
35 amount of revenue generated within each district. For the purposes of this subdivision, revenue  
36 generated within each district shall be determined from the previous year's data. No more than  
37 fifty percent of the revenue allocable under this subdivision may be allocated to the districts upon  
38 approval of the department for implementation of a solid waste management plan and district  
39 operations, and at least fifty percent of the revenue allocable to the districts under this  
40 subdivision shall be allocated to the cities and counties of the district or to persons or entities  
41 providing solid waste management, waste reduction, recycling and related services in these cities  
42 and counties. Each district shall receive a minimum of seventy-five thousand dollars under this  
43 subdivision. After August 28, 2005, each district shall receive a minimum of ninety-five  
44 thousand dollars under this subdivision for district grants and district operations. Each district  
45 receiving moneys under this subdivision shall expend such moneys pursuant to a solid waste  
46 management plan required under section 260.325, and only in the case that the district is in  
47 compliance with planning requirements established by the department. Moneys shall be awarded  
48 based upon grant applications. Any moneys remaining in any fiscal year due to insufficient or  
49 inadequate applications may be reallocated pursuant to this subdivision;

50           (3) Except for the amount up to one-fourth of the department's previous fiscal year  
51 expense, any remaining unencumbered funds generated under subdivision (1) of this subsection  
52 in prior fiscal years shall be reallocated under this section;

53           (4) Funds may be made available under this subsection for the administration and grants  
54 of the used motor oil program described in section 260.253;



55 (5) The department and the environmental improvement and energy resources authority  
56 shall conduct sample audits of grants provided under this subsection.

57 3. The advisory board created in section 260.345 shall recommend criteria to be used to  
58 allocate grant moneys to districts, cities and counties. These criteria shall establish a priority for  
59 proposals which provide methods of solid waste reduction and recycling. The department shall  
60 promulgate criteria for evaluating grants by rule and regulation. Projects of cities and counties  
61 located within a district which are funded by grants under this section shall conform to the  
62 district solid waste management plan.

63 4. The funds awarded to the districts, counties and cities pursuant to this section shall  
64 be used for the purposes set forth in sections 260.300 to 260.345, and shall be used in addition  
65 to existing funds appropriated by counties and cities for solid waste management and shall not  
66 supplant county or city appropriated funds.

67 5. The department, in conjunction with the solid waste advisory board, shall review the  
68 performance of all grant recipients to ensure that grant moneys were appropriately and effectively  
69 expended to further the purposes of the grant, as expressed in the recipient's grant application.  
70 The grant application shall contain specific goals and implementation dates, and grant recipients  
71 shall be contractually obligated to fulfill same. The department may require the recipient to  
72 submit periodic reports and such other data as are necessary, both during the grant period and  
73 up to five years thereafter, to ensure compliance with this section. The department may audit the  
74 records of any recipient to ensure compliance with this section. Recipients of grants under  
75 sections 260.300 to 260.345 shall maintain such records as required by the department. If a grant  
76 recipient fails to maintain records or submit reports as required herein, refuses the department  
77 access to the records, or fails to meet the department's performance standards, the department  
78 may withhold subsequent grant payments, if any, and may compel the repayment of funds  
79 provided to the recipient pursuant to a grant.

80 6. The department shall provide for a security interest in any machinery or equipment  
81 purchased through grant moneys distributed pursuant to this section.

82 7. If the moneys are not transmitted to the department within the time frame established  
83 by the rule promulgated, interest shall be imposed on the moneys due the department at the rate  
84 of ten percent per annum from the prescribed due date until payment is actually made. These  
85 interest amounts shall be deposited to the credit of the solid waste management fund.

260.360. When used in sections 260.350 to 260.430 and in standards, rules and  
2 regulations adopted pursuant to sections 260.350 to 260.430, the following words and phrases  
3 mean:

4 (1) "Cleanup", all actions necessary to contain, collect, control, treat, disburse, remove  
5 or dispose of a hazardous waste;

6 (2) "Commission", the hazardous waste management commission of the state of  
7 Missouri created by sections 260.350 to 260.430;

8 (3) "Conference, conciliation and persuasion", a process of verbal or written  
9 communications consisting of meetings, reports, correspondence or telephone conferences  
10 between authorized representatives of the department and the alleged violator. The process shall,  
11 at a minimum, consist of one offer to meet with the alleged violator tendered by the department.  
12 During any such meeting, the department and the alleged violator shall negotiate in good faith  
13 to eliminate the alleged violation and shall attempt to agree upon a plan to achieve compliance;

14 (4) "Department", the Missouri department of natural resources;

15 (5) "Detonation", an explosion in which chemical transformation passes through the  
16 material faster than the speed of sound, which is 0.33 kilometers per second at sea level;

17 (6) "Director", the director of the Missouri department of natural resources;

18 (7) "Disposal", the discharge, deposit, injection, dumping, spilling, leaking, or placing  
19 of any waste into or on any land or water so that such waste, or any constituent thereof, may enter  
20 the environment or be emitted into the air or be discharged into the waters, including  
21 groundwaters;

22 (8) "Final disposition", the location, time and method by which hazardous waste loses  
23 its identity or enters the environment, including, but not limited to, disposal, resource recovery  
24 and treatment;

25 (9) "Generation", the act or process of producing waste;

26 (10) "Generator", any person who produces waste;

27 (11) "Hazardous waste", any waste or combination of wastes, as determined by the  
28 commission by rules and regulations, which, because of its quantity, concentration, or physical,  
29 chemical or infectious characteristics, may cause or significantly contribute to an increase in  
30 mortality or an increase in serious irreversible, or incapacitating reversible, illness, or pose a  
31 present or potential threat to the health of humans or the environment;

32 (12) "Hazardous waste facility", any property that is intended or used for hazardous  
33 waste management including, but not limited to, storage, treatment and disposal sites;

34 (13) "Hazardous waste management", the systematic recognition and control of  
35 hazardous waste from generation to final disposition including, but not limited to, its  
36 identification, containerization, labeling, storage, collection, transfer or transportation, treatment,  
37 resource recovery or disposal;

38 (14) "Infectious waste", waste in quantities and characteristics as determined by the  
39 department by rule and regulation, including the following wastes known or suspected to be  
40 infectious: isolation wastes, cultures and stocks of etiologic agents, contaminated blood and  
41 blood products, other contaminated surgical wastes, wastes from autopsy, contaminated

42 laboratory wastes, sharps, dialysis unit wastes, discarded biologicals and antineoplastic  
43 chemotherapeutic materials; provided, however, that infectious waste does not mean waste  
44 treated to department specifications;

45 (15) "Manifest", a department form accompanying hazardous waste from point of  
46 generation, through transport, to final disposition;

47 (16) "Minor violation", a violation which possesses a small potential to harm the  
48 environment or human health or cause pollution, was not knowingly committed, and is not  
49 defined by the United States Environmental Protection Agency as other than minor;

50 (17) "Person", an individual, partnership, copartnership, firm, company, public or private  
51 corporation, association, joint stock company, trust, estate, political subdivision or any agency,  
52 board, department or bureau of the state or federal government or any other legal entity whatever  
53 which is recognized by law as the subject of rights and duties;

54 (18) **"Plasma arc technology", a process that converts electrical energy into thermal**  
55 **energy. The plasma arc is created when a voltage is established between two points;**

56 (19) "Resource recovery", the reclamation of energy or materials from waste, its reuse  
57 or its transformation into new products which are not wastes;

58 [(19)] (20) "Storage", the containment or holding of waste at a designated location in  
59 such manner or for such a period of time, as determined in regulations adopted hereunder, so as  
60 not to constitute disposal of such waste;

61 [(20)] (21) "Treatment", the processing of waste to remove or reduce its harmful  
62 properties or to contribute to more efficient or less costly management or to enhance its potential  
63 for resource recovery including, but not limited to, existing or future procedures for  
64 biodegradation, concentration, reduction in volume, detoxification, fixation, incineration, **plasma**  
65 **arc technology**, or neutralization;

66 [(21)] (22) "Waste", any material for which no use or sale is intended and which will be  
67 discarded or any material which has been or is being discarded. "Waste" shall also include  
68 certain residual materials, to be specified by the rules and regulations, which may be sold for  
69 purposes of energy or materials reclamation, reuse or transformation into new products which  
70 are not wastes;

71 [(22)] (23) "Waste explosives", any waste which has the potential to detonate, or any  
72 bulk military propellant which cannot be safely disposed of through other modes of treatment.

260.800. As used in sections 260.800 to 260.815, the following terms shall mean:

2 (1) "Governing body", any city, municipality, county or combination thereof, or an  
3 authority or agency created by intergovernmental compact;

4 (2) "Solid waste", garbage, refuse and other discarded materials including, but not  
5 limited to, solid and semisolid waste materials resulting from industrial, commercial,

6 agricultural, governmental and domestic activities, but does not include overburden, rock,  
7 tailings, matte, slag or other waste material resulting from mining, milling or smelting;  
8 (3) "Waste to energy facility", any facility, **including plasma arc technology**, with the  
9 electric generating capacity of up to eighty megawatts which is fueled by solid waste.

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