

FIRST REGULAR SESSION

HOUSE BILL NO. 1268

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LOW (39) (Sponsor), LOWE (44), BAKER (25),
CHAPPELLE-NADAL, DONNELLY, HOLSMAN AND OXFORD (Co-sponsors).

Read 1st time March 29, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

2658L.01I

AN ACT

To amend chapter 643, RSMo, by adding thereto eight new sections relating to the reduction of carbon dioxide emissions, with penalty provisions.

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

Section A. Chapter 643, RSMo, is amended by adding thereto eight new sections, to be
2 known as sections 643.700, 643.703, 643.706, 643.709, 643.712, 643.715, 643.718, and 643.721,
3 to read as follows:

643.700. Sections 643.700 to 643.721 shall be known and may be cited as the
2 "Missouri Global Warming Solutions Act of 2007".

643.703. As used in sections 643.700 to 643.721, the following terms shall mean:

2 (1) "Allowance", an authorization to emit, during a specified year, up to one ton
3 of carbon dioxide equivalent;

4 (2) "Alternative compliance mechanism", an action undertaken by a greenhouse
5 gas emission source that achieves the equivalent reduction of greenhouse gas emissions
6 over the same time period as a direct emission reduction, and that is approved by the
7 commission. Alternative compliance mechanism includes, but is not limited to, a flexible
8 compliance schedule, alternative control technology, a process change, or a product
9 substitution;

10 (3) "Carbon dioxide equivalent", the amount of carbon dioxide by weight that
11 would produce the same global warming impact as a given weight of another greenhouse

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 gas, based on the best available science, including from the Intergovernmental Panel on
13 Climate Change;

14 (4) "Commission", the air conservation commission of the state of Missouri created
15 in section 643.040;

16 (5) "Cost-effective" or "cost-effectiveness", the cost per unit of reduced emissions
17 of greenhouse gases adjusted for its global warming potential;

18 (6) "Direct emission reduction", a greenhouse gas emission reduction action made
19 by a greenhouse gas emission source at that source;

20 (7) "Emissions reduction measure", programs, measures, standards, and
21 alternative compliance mechanisms authorized under sections 643.700 to 643.721,
22 applicable to sources or categories of sources, that are designed to reduce emissions of
23 greenhouse gases;

24 (8) "Greenhouse gas" or "greenhouse gases", includes all of the following gases:
25 carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur
26 hexafluoride;

27 (9) "Greenhouse gas emissions limit", an authorization, during a specified year, to
28 emit up to a level of greenhouse gases specified by the commission, expressed in tons of
29 carbon dioxide equivalents;

30 (10) "Greenhouse gas emission source" or "source", any source, or category of
31 sources, of greenhouse gas emissions whose emissions are at a level of significance, as
32 determined by the commission, that its participation in the program established under
33 sections 643.700 to 643.721 will enable the commission to effectively reduce greenhouse gas
34 emissions and monitor compliance with the statewide greenhouse gas emissions limit;

35 (11) "Leakage", a reduction in emissions of greenhouse gases within the state that
36 is offset by an increase in emissions of greenhouse gases outside the state;

37 (12) "Statewide greenhouse gas emissions", the total annual
38 emissions of greenhouse gases in the state, including all emissions of greenhouse gases from
39 the generation of electricity delivered to and consumed in Missouri, accounting for
40 transmission and distribution line losses, whether the electricity is generated in state or
41 imported. Statewide emissions shall be expressed in tons of carbon dioxide equivalents;

42 (13) "Statewide greenhouse gas emissions limit" or "statewide emissions limit", the
43 maximum allowable level of statewide greenhouse gas emissions in 2021, as determined by
44 the commission under section 643.712.

643.706. The commission shall monitor and regulate sources of emissions of
2 greenhouse gases that cause global warming in order to reduce emissions of greenhouse
3 gases.

643.709. 1. On or before January 1, 2009, the commission shall adopt regulations to require the reporting and verification of statewide greenhouse gas emissions and to monitor and enforce compliance with this program.

2. The regulations shall do all of the following:

(1) Require the monitoring and annual reporting of greenhouse gas emissions from greenhouse gas emission sources beginning with the sources or categories of sources that contribute the most to statewide emissions;

(2) Account for greenhouse gas emissions from all electricity consumed in the state, including transmission and distribution line losses from electricity generated within the state or imported from outside the state. This requirement applies to all retail sellers of electricity;

(3) Ensure rigorous and consistent accounting of emissions, and provide reporting tools and formats to ensure collection of necessary data;

(4) Ensure that greenhouse gas emission sources maintain comprehensive records of all reported greenhouse gas emissions;

3. The commission shall:

(1) Periodically review and update its emission reporting requirements, as necessary; and

(2) Review existing and proposed international, federal, and state greenhouse gas emission reporting programs and make reasonable efforts to promote consistency among the programs established under this section and other programs, and to streamline reporting requirements on greenhouse gas emission sources.

643.712. 1. By January 1, 2009, the commission shall, after one or more public hearings, with public notice, and an opportunity for all interested parties to comment, determine what the statewide greenhouse gas emissions level was in 1990, and approve in a public hearing, a statewide greenhouse gas emissions limit that is equivalent to that level, to be achieved by 2021. In order to ensure the most accurate determination feasible, the commission shall evaluate the best available scientific, technological, and economic information on greenhouse gas emissions to determine the 1990 level of greenhouse gas emissions.

2. The commission shall make recommendations to the governor and the general assembly on how to continue reductions of greenhouse gas emissions beyond 2021.

643.715. 1. The commission shall adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions from sources or categories of sources, subject to the criteria and schedules set forth in this section.

5 2. (1) On or before July 1, 2008, the commission shall publish and make available
6 to the public a list of discrete early action greenhouse gas emission reduction measures that
7 can be implemented prior to the measures and limits adopted under subsection 4 of this
8 section.

9 (2) On or before January 1, 2011, the commission shall adopt regulations to
10 implement the measures identified on the list published under subdivision (1) of this
11 subsection.

12 (3) The regulations adopted by the commission under this section shall achieve the
13 maximum technologically feasible and cost-effective reductions in greenhouse gas emissions
14 from those sources or categories of sources, in furtherance of achieving the statewide
15 greenhouse gas emissions limit.

16 (4) The regulations adopted under this section shall be enforceable no later than
17 January 1, 2011.

18 3. (1) On or before January 1, 2010, the commission shall prepare and approve a
19 plan for achieving the maximum technologically feasible and cost-effective reductions in
20 greenhouse gas emissions from sources or categories of sources of greenhouse gases by 2021
21 under this section. The commission shall consult with all state agencies with jurisdiction
22 over sources of greenhouse gases, including the public service commission on all elements
23 of its plan that pertain to energy-related matters including, but not limited to, electrical
24 generation, load based-standards or requirements, the provision of reliable and affordable
25 electrical service, petroleum refining, and statewide fuel supplies to ensure the greenhouse
26 gas emissions reduction activities to be adopted and implemented by the commission are
27 complementary, nonduplicative, and can be implemented in an efficient and cost-effective
28 manner.

29 (2) The plan shall identify and make recommendations on direct emission reduction
30 measures, alternative compliance mechanisms, and potential monetary and nonmonetary
31 incentives for sources and categories of sources that the commission finds are necessary or
32 desirable to facilitate the achievement of the maximum feasible and cost-effective
33 reductions of greenhouse gas emissions by 2021.

34 (3) In making the determinations required by subdivision (2) of this subsection, the
35 commission shall consider all relevant information pertaining to greenhouse gas emissions
36 reduction programs in other states, localities, and nations.

37 (4) The commission shall evaluate the total potential costs and total potential
38 economic and noneconomic benefits of the plan for reducing greenhouse gases to
39 Missouri's economy, environment, and public health, using the best available economic
40 models, emission estimation techniques, and other scientific methods.

41 (5) In developing its plan, the commission shall take into account the relative
42 contribution of each source or source category to statewide greenhouse gas emissions, and
43 the potential for adverse effects on small businesses, and shall recommend a de minimis
44 threshold of greenhouse gas emissions below which emission reduction requirements will
45 not apply.

46 (6) In developing its plan, the commission shall identify opportunities for emission
47 reductions measures from all verifiable and enforceable voluntary actions, including, but
48 not limited to, carbon sequestration projects and best management practices.

49 (7) The commission shall conduct a series of public hearings to give interested
50 parties an opportunity to comment on the plan. The commission shall conduct a portion
51 of these hearings in regions of the state that have the most significant exposure to air
52 pollutants, including, but not limited to, communities with minority populations,
53 communities with low-income populations, or both.

54 (8) The commission shall update its plan for achieving the maximum
55 technologically feasible and cost-effective reductions of greenhouse gas emissions at least
56 once every five years.

57 4. (1) On or before January 1, 2012, the commission shall adopt greenhouse gas
58 emission limits and emission reduction measures by regulation to achieve the maximum
59 technologically feasible and cost-effective reductions in greenhouse gas emissions in
60 furtherance of achieving the statewide greenhouse gas emissions limit, to become operative
61 beginning on January 1, 2013.

62 (2) In adopting regulations under this subsection, to the extent feasible and in
63 furtherance of achieving the statewide greenhouse gas emissions limit, the commission
64 shall:

65 (a) Design the regulations, including distribution of emissions allowances where
66 appropriate, in a manner that is equitable, seeks to minimize costs and maximize the total
67 benefits to Missouri, and encourages early action to reduce greenhouse gas emissions;

68 (b) Ensure that activities undertaken to comply with the regulations do not
69 disproportionately impact low-income communities;

70 (c) Ensure that entities that have voluntarily reduced their greenhouse gas
71 emissions prior to the implementation of this subsection receive appropriate credit for
72 early voluntary reductions;

73 (d) Ensure that activities do not interfere with efforts to achieve and maintain
74 federal and state ambient air quality standards and to reduce toxic air contaminant
75 emissions;

76 (e) Consider cost-effectiveness of these regulations;

(f) Consider overall societal benefits, including reductions in other air pollutants, diversification of energy sources, and other benefits to the economy, environment, and public health;

(g) Minimize the administrative burden of implementing and complying with these regulations;

(h) Minimize leakage;

(i) Consider the significance of the contribution of each source or category of sources to statewide emissions of greenhouse gases;

(3) Any regulation adopted by the commission under this section shall ensure all of the following:

(a) The greenhouse gas emission reductions achieved are real, permanent, quantifiable, verifiable, and enforceable by the commission; and

(b) If applicable, the greenhouse gas emission reduction occurs over the same time period and is equivalent in amount to any direct emission reduction required under sections 643.700 to 643.721;

(4) The commission shall rely upon the best available economic and scientific information and its assessment of existing and projected technological capabilities when adopting the regulations required by this section.

(5) The commission shall consult with the public service commission in the development of the regulations as they affect electricity and natural gas providers in order to minimize duplicative or inconsistent regulatory requirements.

(6) After January 1, 2012, the commission may revise regulations adopted under this section and adopt additional regulations to further the provisions of sections 643.700 to 643.721.

5. Nothing in sections 643.700 to 643.721 restricts the commission from adopting greenhouse gas emission limits or emission reduction measures prior to January 1, 2012, imposing those limits or measures prior to January 1, 2013, or providing early reduction credit where appropriate.

6. The commission shall consult with other states, and the federal government, and other nations to identify the most effective strategies and methods to reduce greenhouse gases, manage greenhouse gas control programs, and to facilitate the development of integrated and cost-effective regional, national, and international greenhouse gas reduction programs.

7. The commission shall ensure that the greenhouse gas emission reduction rules, regulations, programs, mechanisms, and incentives under its jurisdiction, where applicable and to the extent feasible, direct public and private investment toward the most

113 disadvantaged communities in Missouri and provide an opportunity for small businesses,
114 schools, affordable housing associations, and other community institutions to participate
115 in and benefit from statewide efforts to reduce greenhouse gas emissions.

643.718. 1. The commission shall monitor compliance with and enforce any rule,
2 regulation, order, emission limitation, or emissions reduction measures adopted by the
3 commission under sections 643.700 to 643.721.

4 2. Any person violating sections 643.700 to 643.721 shall be guilty of a class A
5 misdemeanor. Each day of violation shall constitute a separate and distinct offense.

643.721. The commission shall promulgate rules to implement the provisions of
2 sections 643.700 to 643.721. Any rule or portion of a rule, as that term is defined in section
3 536.010, RSMo, that is created under the authority delegated in this section shall become
4 effective only if it complies with and is subject to all of the provisions of chapter 536,
5 RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are
6 nonseverable and if any of the powers vested with the general assembly under chapter 536,
7 RSMo, to review, to delay the effective date, or to disapprove and annul a rule are
8 subsequently held unconstitutional, then the grant of rulemaking authority and any rule
9 proposed or adopted after August 28, 2007, shall be invalid and void.

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