

SECOND REGULAR SESSION

HOUSE BILL NO. 1584

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LOEHNER (Sponsor) AND BIVINS (Co-sponsor).

Read 1st time January 9, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

3588L.01I

AN ACT

To repeal sections 643.073, 643.075, 643.225, and 643.237, RSMo, and to enact in lieu thereof four new sections relating to the collection of fees.

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

Section A. Sections 643.073, 643.075, 643.225, and 643.237, RSMo, are repealed and
2 four new sections enacted in lieu thereof, to be known as sections 643.073, 643.075, 643.225,
3 and 643.237, to read as follows:

643.073. 1. The commission shall establish, by rule, a procedure for the orderly
2 submission of applications for an operating permit by those regulated air contaminant sources
3 in operation on August 28, 1992, and procedures for the issuance of operating permits. Any
4 person who operates an air contaminant source on or after August 28, 1992, shall submit to the
5 department, with the application, payment of a [one] **two** hundred-dollar fee with the request for
6 the approval of an operating permit; **except that if the operating permit is an open-burning**
7 **permit or a gasoline vapor recovery operation permit, then such fee shall be in the amount**
8 **of one hundred dollars and any operating permit application required by 40 CFR Part 70**
9 **shall be accompanied with a five hundred-dollar fee.**

10 2. Any person who wishes to construct or modify and operate any regulated air
11 contaminant source shall submit an application to the department. The commission shall
12 establish, by rule, procedures for the orderly submission of applications for those persons that
13 wish to construct or modify and operate any regulated air contaminant source and procedures for
14 the issuance of a permit to construct or modify and operate. The department shall review

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 applications within the time period established in sections 643.075 and 643.078 or under section
16 502 of the federal Clean Air Act, as amended, 42 U.S.C. 7661, as appropriate, unless an
17 extension is requested by the applicant and approved by the director. Each applicant must obtain
18 both a construction permit and an operating permit but the department shall establish a unified
19 review, hearing and approval process. The holder of a valid operating permit shall have
20 operational flexibility to make changes to any air contaminant source under the provisions of
21 subsection 14 of section 643.078 without submitting an application for an operating permit under
22 this section.

643.075. 1. It shall be unlawful for any person to commence construction of any air
2 contaminant source in this state, without a permit therefor, if such source is of a class fixed by
3 regulation of the commission which requires a permit therefor.

4 2. Every source required to obtain a construction permit shall make application therefor
5 to the department and shall submit therewith such plans and specifications as prescribed by rule.
6 The director shall promptly investigate each application and if he **or she** determines that the
7 source meets and will meet the requirements of sections 643.010 to 643.190 and the rules
8 promulgated pursuant thereto, he **or she** shall issue a construction permit with such conditions
9 as he **or she** deems necessary to ensure that the source will meet the requirements of sections
10 643.010 to 643.190 and the rules. An application submitted for the construction or modification
11 and operation of any regulated air contaminant source shall receive a unified construction and
12 operating permit review process under section 643.078, unless the applicant requests in writing
13 that the construction and operating permits be reviewed separately. If the director determines
14 that the source does not meet or will not meet the requirements of sections 643.010 to 643.190
15 and the rules promulgated pursuant thereto, he **or she** shall deny the construction permit.

16 3. Before issuing a construction permit to build or modify an air contaminant source the
17 director shall determine if the ambient air quality standards in the vicinity of the source are being
18 exceeded and shall determine the impact on the ambient air quality standards from the source.
19 The director, in order to effectuate the purposes of sections 643.010 to 643.190, may deny a
20 construction permit if the source will appreciably affect the air quality or the air quality standards
21 are being substantially exceeded.

22 4. The director may require the applicant as a condition to the issuance of the
23 construction permit to provide and maintain such facilities or to conduct such tests as are
24 necessary to determine the nature, extent, quantity or degree of air contaminants discharged into
25 the ambient air from the proposed source.

26 5. The director shall act within thirty days after a request for approval of an application
27 for a construction permit. The director shall render a decision to approve or deny a construction
28 permit within ninety days of receipt of a complete application for a class B source and within one

29 hundred eighty-four days of receipt of a complete application for a class A source. The director
30 shall promptly notify the applicant in writing of his **or her** action and if the construction permit
31 is denied state the reasons therefor.

32 6. Any aggrieved person may appeal any permit decision made under this section,
33 including failure to render a decision within the time period established in this section. A notice
34 of appeal shall be filed with the commission within thirty days of the director's action or within
35 thirty days from the date by which the decision should have been rendered if the director has
36 failed to act.

37 7. (1) There shall be a [one] **two** hundred-dollar filing fee payable to the state of
38 Missouri with each application before a construction permit shall be issued; **except that any**
39 **gasoline vapor recovery construction application shall include a one hundred-dollar filing**
40 **fee.** No manufacturing or processing plant or operating location or other air contaminant source
41 shall be required to pay more than one filing fee with a construction permit application. The
42 provisions of this section shall not apply nor require the issuance of a permit wherein the
43 proposed construction is that of a private residence.

44 (2) Upon completion of the department's evaluation of the application, but before
45 receiving a construction permit, the applicant shall reimburse the department for all reasonable
46 costs incurred by the department whether or not a construction permit is issued by the department
47 or withdrawn by the applicant. If the department fails to approve or deny a construction permit
48 within the time period specified in this section, the applicant shall not be required to reimburse
49 the department for the review of the construction permit application. The commission shall, by
50 rule, set the hourly charge, not to exceed the actual cost thereof and not to exceed [fifty] **ninety**
51 dollars per hour, for review of each construction permit application. The commission may
52 exempt any person from payment of the hourly fees under this subdivision, or may reduce such
53 fees, upon an appeal filed with the commission by such person stating that the fee will create an
54 unreasonable economic hardship upon such person. The commission may conduct a closed
55 meeting and have closed records, as defined in section 610.010, RSMo, for the purpose of
56 gathering information from the person filing an appeal for the exemption. Information obtained
57 in this meeting may be held confidential by the commission upon the request of the person filing
58 the appeal for exemption. If the fees or any portion of the fees imposed by this section are not
59 paid within ninety days from the date of billing there shall be imposed interest upon the unpaid
60 amount at the rate of ten percent per annum from the date of billing until payment is actually
61 made. A construction permit application for a portable facility may include any site at which
62 the portable facility is expected to be used; however, a separate site permit application shall be
63 required when the portable facility is used or expected to be used at any site which is not
64 included in a previously approved construction permit application. Upon receipt of the

65 application, the applicant shall be notified by the department of hourly fees and requirements put
66 forth in this subdivision.

67 (3) Applicants who withdraw their application before the department completes its
68 evaluation shall reimburse the department for costs incurred in the evaluation.

69 (4) All moneys received pursuant to this section and section 643.073 and any other
70 moneys so designated shall be placed in the state treasury and credited to the natural resources
71 protection fund--air pollution permit fee subaccount, created in section 640.220, RSMo, and shall
72 be expended for the administration of this section and sections 643.073 and 643.078 and for no
73 other purpose, and shall be used to supplement state general revenue and federal funds
74 appropriated to the department. After appropriation, the moneys received pursuant to this section
75 and in such fund subaccount shall be expended for the administration of this section and for no
76 other purpose. Any unexpended balance in such fund subaccount at the end of any appropriation
77 period shall not be transferred to the general revenue fund of the state treasury and shall be
78 exempt from the provisions of section 33.080, RSMo. Any interest received on such deposits
79 shall be credited to the fund subaccount.

80 8. Any person who obtains a valid permit from a city or county pursuant to the authority
81 granted in section 643.140 shall be deemed to have met the requirements of this section and shall
82 not be liable to the department for construction permit fees imposed pursuant to subsection 7
83 of this section.

643.225. 1. The provisions of sections 643.225 to 643.250 shall apply to all asbestos
2 abatement projects. The commission shall promulgate rules and regulations it deems necessary
3 to implement and administer the provisions of sections 643.225 to 643.250, including
4 requirements, procedures and standards relating to asbestos projects, as well as the authority to
5 require corrective measures to be taken in asbestos abatement projects as are deemed necessary
6 to protect public health and the environment. The director shall establish any examinations for
7 certification required by this section and shall hold such examinations at times and places as
8 determined by the director.

9 2. Except as otherwise provided in sections 643.225 to 643.250, no individual shall
10 engage in an asbestos abatement project, inspection, management plan, abatement project design
11 or asbestos air sampling unless the person has been issued a certificate by the director, or by the
12 commission after appeal, for that purpose.

13 3. In any application made to the director to obtain such certification as an inspector,
14 management planner, abatement project designer, supervisor, contractor or worker from the
15 department, the applicant shall include his **or her** diploma providing proof of successful
16 completion of either a state accredited or United States Environmental Protection Agency (EPA)
17 accredited training course as described in section 643.228. In addition, an applicant for

18 certification as a management planner shall first be certified as an inspector. All applicants for
19 certification as an inspector, management planner, abatement project designer, supervisor,
20 contractor or worker shall successfully pass a state examination on Missouri state asbestos
21 statutes and rules relating to asbestos. Certification issued hereunder shall expire one year from
22 its effective date. Individuals applying for state certification as an asbestos air sampling
23 professional shall have the following credentials:

24 (1) A bachelor of science degree in industrial hygiene plus one year of experience in the
25 field; or

26 (2) A master of science degree in industrial hygiene; or

27 (3) Certification as an industrial hygienist as designated by the American Board of
28 Industrial Hygiene; or

29 (4) Three years of practical experience in the field of industrial hygiene, including
30 significant asbestos air monitoring experience and the completion of a forty-hour asbestos course
31 which includes air monitoring instruction (National Institute of Occupational Safety and Health
32 582 course on air sampling or equivalent). In addition to these qualifications, the individual
33 must also pass the state of Missouri asbestos examination. All asbestos air sampling technicians
34 shall be trained and overseen by an asbestos air sampling professional and shall meet the
35 requirements of training found in OSHA's 29 CFR 1926.58. Certification under this section as
36 an AHERA asbestos abatement project designer does not qualify an individual as an architect,
37 engineer or land surveyor, as defined in chapter 327, RSMo.

38 4. An application fee of seventy-five dollars shall be assessed for each category, except
39 asbestos abatement worker, to cover administrative costs incurred. An application fee of
40 twenty-five dollars shall be assessed for each asbestos abatement worker to cover administrative
41 costs incurred. A fee of twenty-five dollars shall be assessed per state examination.

42 5. In order to qualify for renewal of a certificate, an individual shall have successfully
43 completed an annual refresher course from an Environmental Protection Agency or state of
44 Missouri accredited training program. For each discipline, the refresher course shall review and
45 discuss current federal and state statute and rule developments, state-of-the-art procedures and
46 key aspects of the initial training course, as determined by the state of Missouri. For all
47 categories except inspectors, individuals shall complete a one-day annual refresher training
48 course for recertification. Refresher courses for inspectors shall be at least a half-day in length.
49 Management planners shall attend the inspector refresher course, plus an additional half-day on
50 management planning. All refresher courses shall require an individual to successfully pass an
51 examination upon completion of the course. In the case of significant changes in Missouri state
52 asbestos statutes or rules, an individual shall also be required to take and successfully pass an
53 updated Missouri state asbestos examination. An individual who has failed the Missouri state

54 asbestos examination may retake it on the next scheduled examination date. If his **or her**
55 certification has lapsed for more than twenty-four months, he **or she** shall be required to retake
56 the course in his **or her** specialty area described in this section. Failure to comply with the
57 requirements for renewal of certification in this section will result in decertification. In no event
58 shall certification or recertification constitute permission to violate sections 643.225 to 643.250
59 or any standard or rule promulgated under sections 643.225 to 643.250.

60 6. A fee of [five] **fifty** dollars shall be paid to the state for renewal of certificates to cover
61 administrative costs.

62 7. The provisions of subsections 2 through 6 of this section, section 643.228, subdivision
63 (4) of subsection 1 of section 643.230, sections 643.232 and 643.235, subdivisions (1) to (3) of
64 subsection 1 of section 643.237, and subsection 2 of section 643.237 shall not apply to a person
65 that is subject to requirements and applicable standards of the United States Environmental
66 Protection Agency (EPA) and the United States Occupational Safety and Health Administration's
67 (OSHA) 29 Code of Federal Regulations 1926.58 and which engages in asbestos abatement
68 projects as part of normal operations in the facility solely at its own place or places of business.
69 A person shall receive an exemption upon submitting to the director, on a form provided by the
70 department, documentation of the training provided to their employees to meet the requirements
71 of applicable OSHA and EPA rules and regulations and the type of asbestos abatement projects
72 which constitute normal operations performed by the applicant. If the application does not meet
73 the requirements of this subsection and the rules and regulations promulgated by the department,
74 the applicant shall be notified, within one hundred eighty days of the receipt of the application,
75 that his **or her** exemption has been revoked. An applicant may appeal the revocation of an
76 exemption to the commission within thirty days of the notice of revocation. This exemption
77 shall not apply to asbestos abatement contractors, to those persons who the commission by rule
78 determines provide a service to the public in its place or places of business as the economic
79 foundation of the facility, or to those persons subject to the requirements of the federal Asbestos
80 Hazard Emergency Response Act of 1986 (P.L. 99-519). A representative of the department
81 shall be permitted to attend, monitor and evaluate any training program provided by the
82 exempted person. Such evaluations may be conducted without prior notice. Refusal to allow
83 such an evaluation is sufficient grounds for loss of exemption status.

84 8. A fee of two hundred fifty dollars shall be submitted with the application for
85 exemption. This is a one-time fee. Exempted persons shall submit to the director changes in
86 curricula or other significant revisions to the training program as they occur.

643.237. 1. Any person undertaking an asbestos abatement project of a magnitude
2 greater than or equal to one hundred sixty square feet or two hundred sixty linear feet shall meet
3 the following requirements:

4 (1) The person shall submit an application for asbestos abatement to the department for
5 review at least twenty days in advance. The application shall be in the form required by the
6 department. Such application shall include the name and address of the applicant, a description
7 of the proposed project and any other information as may be required by the commission and
8 provide proof to the department that all employees engaged in an asbestos abatement project are
9 in compliance with sections 643.225 and 643.228;

10 (2) Persons undertaking an asbestos abatement project shall notify the department within
11 sixty days of the completion of the project in the form required by the department;

12 (3) Persons undertaking an emergency asbestos abatement project of this magnitude shall
13 submit a notification to the department within twenty-four hours of the onset of the emergency.
14 An application for permit to abate shall be submitted to the department within seven days of the
15 onset of the emergency;

16 (4) A fee of one hundred dollars shall be paid for review of each asbestos abatement
17 project notification of this magnitude;

18 (5) Any person undertaking an asbestos abatement project in the jurisdiction of an
19 authorized local air pollution control agency shall be exempt from an application fee if the
20 authorized local agency also imposes an application fee.

21 2. Any person undertaking an asbestos abatement project of a magnitude less than one
22 hundred sixty square feet or two hundred sixty linear feet, but greater than ten square feet or
23 sixteen linear feet shall meet the following requirements:

24 (1) The person shall submit notification to the department for review at least twenty days
25 in advance. The notification shall be in the form required by the department. Such notification
26 shall include the name and address of the applicant, a description of the proposed project and any
27 other information as may be required by the department and provide proof to the department that
28 all employees engaged in an asbestos abatement project are in compliance with sections 643.225
29 and 643.228. In addition, the person shall post for inspection, at the site, current certificates of
30 all individuals engaged in the asbestos abatement project as well as proof of the person's current
31 registration;

32 (2) Persons undertaking an asbestos abatement project shall notify the department within
33 sixty days of the completion of the project in the form required by the department;

34 (3) Persons undertaking an emergency asbestos abatement project of this magnitude shall
35 submit notification to the department within twenty-four hours of the onset of the emergency.

36 3. Any person who submits an asbestos abatement project notification to the department
37 shall submit actual project dates and times for his **or her** project. If the dates and times are
38 revised on this project as submitted to the department, the person is responsible to notify the
39 department at least twenty-four hours prior to the original starting date of the project by

40 telephone and then followup with a written amendment stating the change in date and time. If
41 the person does not comply with this procedure, he **or she** shall be held in violation of the
42 notification requirements found in this section. This requirement does not change the reporting
43 requirements for notification, post notification and emergency projects specified in this section.

44 **4. Any person undertaking a demolition project regulated by 40 CFR Part 61 shall**
45 **provide the department with written notification for each structure to be demolished at**
46 **least ten business days before demolition begins. The notification shall be in the form as**
47 **required by department regulations and shall include a copy of an asbestos inspection**
48 **survey for each structure as completed by a certified asbestos inspector. Each demolition**
49 **notification shall also be accompanied by a fee of one hundred dollars to cover costs**
50 **associated with the review of such notification. Any person undertaking a demolition**
51 **project in the jurisdiction of an authorized local air pollution control agency shall be**
52 **exempt from paying the one-hundred dollar fee if the authorized local agency also imposes**
53 **a similar fee.**

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