

SECOND REGULAR SESSION

# HOUSE BILL NO. 1597

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES ROBB (Sponsor), MOORE AND COX (Co-sponsors).

Read 1st time January 10, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4082L.02I

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### AN ACT

To repeal section 260.750, RSMo, and to enact in lieu thereof two new sections relating to radioactive waste.

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

Section A. Section 260.750, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 260.392 and 260.750, to read as follows:

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

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

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

(3) "Highway route controlled quantity", as defined in 49 CFR Part 173.403, as amended, a quantity of radioactive material within a single package. Highway route controlled quantity shipments of thirty miles or less within this state are exempt from the provisions of this section;

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           (4) "Low-level radioactive waste", any radioactive waste not classified as high-level  
16 radioactive waste, transuranic radioactive waste, or spent nuclear fuel by the United States  
17 Nuclear Regulatory Commission consistent with existing law. Shipments of all sealed  
18 sources meeting the definition of low-level radioactive waste, shipments of low-level  
19 radioactive waste that are within a radius of no more than fifty miles from the point of  
20 origin, and all naturally occurring radioactive material given written approval for landfill  
21 disposal by the department of natural resources under 10 CSR 80.3.010 are exempt from  
22 the provisions of this section. Any low-level radioactive waste that has a radioactive half-  
23 life equal to or less than one hundred twenty days is exempt from the provisions of this  
24 section;

25           (5) "Shipper", the generator, owner, or company contracting for transportation  
26 by truck or rail of the spent nuclear fuel, high-level radioactive waste, highway route  
27 controlled quantity shipments, transuranic radioactive waste, or low-level radioactive  
28 waste;

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

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

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

38           (a) High-level radioactive wastes;

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

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

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

51           (1) One thousand eight hundred dollars for each cask of high-level radioactive  
52 waste, transuranic radioactive waste, spent nuclear fuel, or highway route controlled  
53 quantity shipments transported through or within this state by truck. All casks of high-  
54 level radioactive waste, transuranic radioactive waste, spent nuclear fuel, or highway route  
55 controlled quantity shipments transported by truck are subject to a surcharge of twenty-  
56 five dollars per mile for every mile over two hundred miles traveled in this state;

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

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

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

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

71           (2) Coordination of emergency response capability;

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

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

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

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

85           (7) Administrative costs attributable to the state agencies which are incurred  
86 through their involvement as it relates to the shipment of high-level radioactive waste,

87 transuranic radioactive waste, highway route controlled quantity shipments, spent nuclear  
88 fuel, or low-level radioactive waste through or within this state.

89       4. Nothing in this section shall preclude any other state agency from receiving  
90 reimbursement from the department of natural resources and the environmental radiation  
91 monitoring fund for services rendered that achieve the objectives and comply with the  
92 provisions of this section.

93       5. Any unencumbered balance in the environmental radiation monitoring fund that  
94 exceeds three hundred thousand dollars in any given fiscal year shall be returned to  
95 shippers on a pro rated basis based on the shipper's contribution into the environmental  
96 radiation monitoring fund for that fiscal year.

97       6. The department of natural resources in coordination with the department of  
98 health and senior services and the department of public safety may promulgate rules to  
99 implement the provisions of this section. Any rule or portion of a rule, as that term is  
100 defined in section 536.010, RSMo, that is created under the authority delegated in this  
101 section shall become effective only if it complies with and is subject to all of the provisions  
102 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter  
103 536, RSMo, are nonseverable and if any of the powers vested with the general assembly  
104 under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul  
105 a rule are subsequently held unconstitutional, then the grant of rulemaking authority and  
106 any rule proposed or adopted after August 28, 2008, shall be invalid and void.

107       7. All funds deposited in the environmental radiation monitoring fund through fees  
108 established in subsection 2 of this section shall be utilized by the department of natural  
109 resources, subject to appropriation by the general assembly, for the administration and  
110 enforcement of this section. All interest earned by the moneys in the fund shall accrue to  
111 the fund.

112       8. All fees shall be received by the department of natural resources prior to  
113 shipment.

114       9. Notice of any shipment of high-level radioactive waste, transuranic radioactive  
115 waste, highway route controlled quantity shipments, or spent nuclear fuel through or  
116 within this state shall be provided by the shipper to the governor's designee for advanced  
117 notification, as described in 10 CFR Parts 71 and 73, as amended, prior to such shipment  
118 entering the state. Notice of any shipment of low-level radioactive waste through or within  
119 this state shall be provided by the shipper to the department of natural resources before  
120 such shipment enters the state.

121       10. Any shipper who fails to pay a fee assessed under this section or fails to provide  
122 notice of shipment shall be liable in a civil action for an amount not to exceed ten times the

amount assessed and not paid. The action shall be brought by the attorney general at the request of the department of natural resources. If the action involves a facility domiciled in this state, the action shall be brought in the circuit court of the county in which the facility is located. If the action does not involve a facility domiciled in this state, the action shall be brought in the circuit court of Cole County.

11. Beginning December 31, 2009, and every two years thereafter, the department of natural resources shall prepare and submit a report on activities of the environmental radiation monitoring fund to the general assembly. This report shall include information on fee income received and expenditures made by the state to enforce and administer the provisions of this section.

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

13. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:

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

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

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

260.750. 1. The department of natural resources shall develop an environmental radiation monitoring program for the purpose of monitoring radioactivity in air, water, soil, plant and animal life as necessary to insure the protection of the public health and safety of the environment from radiation hazards.

2. There is hereby created within the state treasury an "Environmental Radiation Monitoring Fund". In addition to general revenue, the department of natural resources is authorized to accept and shall deposit in said fund all gifts, bequests, donations, or other moneys, equipment, supplies, or services from any state, interstate or federal agency, or from any institution, person, firm, or corporation, public or private, as well as fees collected under subsection 2 of section 260.392. This fund shall be used for the environmental radiation monitoring program established in this section and to administer and enforce the provisions of section 260.392.

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