

CONFERENCE COMMITTEE SUBSTITUTE

FOR

SENATE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 734

AN ACT

To repeal sections 266.331, 644.036, 644.054, 701.500, 701.503, and 701.506, RSMo, and to enact in lieu thereof nine new sections relating to natural resources, with an emergency clause for a certain section.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Sections 266.331, 644.036, 644.054, 701.500, 701.503, and 701.506, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 8.305, 266.331, 644.036, 644.054, 701.500, 701.502, 701.503, 701.506, and 1, to read as follows:

8.305. 1. Any appliance purchased with state moneys or a portion of state moneys shall be an appliance that has earned the Energy Star under the Energy Star program co-sponsored by the United States Department of Energy and the United States Environmental Protection Agency. For purposes of this section, the term "appliance" shall have the same meaning as in section 144.526, RSMo.

2. The commissioner of the office of administration may

1 exempt any appliance from the requirements of subsection 1 of
2 this section when the cost of compliance is expected to exceed
3 the projected energy cost savings gained.

4 3. The provisions of this section shall expire on August
5 28, 2011.

6 266.331. Every distributor shall, within thirty days after
7 each six-months' period ending June thirtieth and December
8 thirty-first, file with the director on forms supplied by him, a
9 sworn certificate setting forth the information required by the
10 director by rule. At the time of filing said certificate, each
11 distributor of fertilizer, excluding manipulated animal or
12 vegetable manure, shall pay to the director the fee prescribed by
13 the director by rule, which fee shall not exceed one dollar per
14 ton and one dollar ten cents per metric ton; except that, sales
15 to fertilizer manufacturers or exchanges between them are hereby
16 exempted. Each distributor of fertilizer consisting of
17 manipulated animal or vegetable manure shall pay to the director
18 a fee paid for each ton of manure as prescribed by the director
19 by rule, which fee shall not exceed two cents for each percent
20 nitrogen for manure containing less than five percent nitrogen;
21 or which fee shall not exceed four cents for each percent
22 nitrogen for manure containing at least five but less than ten
23 percent nitrogen; or which fee shall not exceed six cents for
24 each percent nitrogen for manure containing ten or more percent
25 nitrogen. In the event that the director has not prescribed a
26 fee under this section, each distributor required to pay a fee
27 under this section shall pay a fee of one and one-half cents for
28 each one hundred pounds of fertilizer sold by him during the

1 period covered by the certificate filed under this section. The
2 fees so paid to the director shall be used for defraying the
3 expenses in administering sections 266.291 to 266.351 and the
4 rules promulgated under sections 266.291 to 266.351, and for
5 practical and scientific experiments by the Missouri agricultural
6 experiment station in the value and proper use of fertilizers.
7 Such fees may also be used to support such related research and
8 methodology, publications, and educational programs extending the
9 results of the fertilizer experiments as may be of practical use
10 to the farmers of this state.

11 644.036. 1. No standard, rule or regulation or any
12 amendment or repeal thereof shall be adopted except after a
13 public hearing to be held after thirty days' prior notice by
14 advertisement of the date, time and place of the hearing and
15 opportunity given to the public to be heard. Notice of the
16 hearings and copies of the proposed standard, rule or regulation
17 or any amendment or repeal thereof shall also be given by regular
18 mail, at least thirty days prior to the scheduled date of the
19 hearing, to any person who has registered with the director for
20 the purpose of receiving notice of such public hearings in
21 accordance with the procedures prescribed by the commission at
22 least forty-five days prior to the scheduled date of the hearing.
23 However, this provision shall not preclude necessary changes
24 during this thirty-day period.

25 2. At the hearing, opportunity to be heard by the
26 commission with respect to the subject thereof shall be afforded
27 any interested person upon written request to the commission,
28 addressed to the director, not later than seven days prior to the

1 hearing, and may be afforded to other persons if convenient. In
2 addition, any interested persons, whether or not heard, may
3 submit, within seven days subsequent to the hearings, a written
4 statement of their views. The commission may solicit the views,
5 in writing, of persons who may be affected by, or interested in,
6 proposed rules and regulations, or standards. Any person heard
7 or represented at the hearing or making written request for
8 notice shall be given written notice of the action of the
9 commission with respect to the subject thereof.

10 3. Any standard, rule or regulation or amendment or repeal
11 thereof shall not be deemed adopted or in force and effect until
12 it has been approved in writing by at least four members of the
13 commission. A standard, rule or regulation or an amendment or
14 repeal thereof shall not become effective until a certified copy
15 thereof has been filed with the secretary of state as provided in
16 chapter 536, RSMo.

17 4. Unless prohibited by any federal water pollution control
18 act, any standard, rule or regulation or any amendment or repeal
19 thereof which is adopted by the commission may differ in its
20 terms and provisions as between particular types and conditions
21 of water quality standards or of water contaminants, as between
22 particular classes of water contaminant sources, and as between
23 particular waters of the state.

24 5. Any listing required by Section 303(d) of the federal
25 Clean Water Act, as amended, 33 U.S.C. 1251, et seq., to be sent
26 to the U.S. Environmental Protection Agency for its approval that
27 will result in any waters of the state being classified as
28 impaired shall be adopted by the commission after a public

1 hearing, or series of hearings, held in accordance with the
2 following procedures. The department of natural resources shall
3 publish in at least six regional newspapers, in advance, a notice
4 by advertisement the availability of a proposed list of impaired
5 waters of the state and such notice shall include at least ninety
6 days' advance notice of the date, time, and place of the public
7 hearing and opportunity given to the public to be heard. Notice
8 of the hearings and copies of the proposed list of impaired
9 waters also shall be posted on the department of natural
10 resources' web site and given by regular mail, at least ninety
11 days prior to the scheduled date of the hearing, to any person
12 who has registered with the director for the purpose of receiving
13 notice of such public hearings. The proposed list of impaired
14 waters shall identify the water segment, the uses to be made of
15 such waters, the uses impaired, identify the pollutants causing
16 or expected to cause violations of the applicable water quality
17 standards, and provide a summary of the data relied upon to make
18 the preliminary determination. Contemporaneous with the
19 publication of the notice of public hearing, the department shall
20 make available on its web site all data and information it relied
21 upon to prepare the proposed list of impaired waters, including a
22 narrative explanation of how the department determined the water
23 segment was impaired. At any time after the public notice and
24 until seven days after the public hearing, the department shall
25 accept written comments on the proposed list of impaired waters.
26 After the public hearing and after all written comments have been
27 submitted, the department shall prepare a written response to all
28 comments and a revised list of impaired waters. The commission

1 shall adopt a list of impaired waters in a public meeting during
2 which the public shall be afforded an opportunity to respond to
3 the department's written response to comments and revised list of
4 impaired waters. Notice of the meeting shall include the date,
5 time, and place of the public meeting and shall provide notice
6 that the commission will give interested persons the opportunity
7 to respond to the department's revised list of impaired waters
8 and written responses to comments. At its discretion, the
9 commission may extend public comment periods or hold additional
10 public hearings on the proposed and revised lists of impaired
11 waters. The commission shall not vote to add to the list of
12 impaired waters any waters not recommended by the department in
13 the proposed or revised lists of impaired waters without granting
14 the public at least thirty additional days to comment on the
15 proposed addition. The list of impaired waters adopted by the
16 commission shall not be deemed to be a rule as defined by section
17 536.010, RSMo. The listing of any water segment on the list of
18 impaired waters adopted by the commission shall be subject to
19 judicial review by any adversely affected party under section
20 536.150, RSMo. The provisions in this subsection shall expire on
21 August 28, [2009] 2010.

22 644.054. 1. Fees imposed in sections 644.052 and 644.053
23 shall, except for those fees imposed pursuant to subsection 4 and
24 subsections 6 to 13 of section 644.052, become effective October
25 1, 1990, and shall expire December 31, [2009] 2010. Fees imposed
26 pursuant to subsection 4 and subsections 6 to 13 of section
27 644.052 shall become effective August 28, 2000, and shall expire
28 on December 31, [2009] 2010. The clean water commission shall

1 promulgate rules and regulations on the procedures for billing
2 and collection. All sums received through the payment of fees
3 shall be placed in the state treasury and credited to an
4 appropriate subaccount of the natural resources protection fund
5 created in section 640.220, RSMo. Moneys in the subaccount shall
6 be expended, upon appropriation, solely for the administration of
7 sections 644.006 to 644.141. Fees collected pursuant to
8 subsection 10 of section 644.052 by a city, a public sewer
9 district, a public water district or other publicly owned
10 treatment works are state fees. Five percent of the fee revenue
11 collected shall be retained by the city, public sewer district,
12 public water district or other publicly owned treatment works as
13 reimbursement of billing and collection expenses.

14 2. The commission may grant a variance pursuant to section
15 644.061 to reduce fees collected pursuant to section 644.052 for
16 facilities that adopt systems or technologies that reduce the
17 discharge of water contaminants substantially below the levels
18 required by commission rules.

19 3. Fees imposed in subsections 2 to 6 of section 644.052
20 shall be due on the date of application and on each anniversary
21 date of permit issuance thereafter until the permit is
22 terminated.

23 4. There shall be convened a joint committee appointed by
24 the president pro tem of the senate and the speaker of the house
25 of representatives to consider proposals for restructuring the
26 fees imposed in sections 644.052 and 644.053. The committee
27 shall review storm water programs, the state's implementation of
28 the federal clean water program, storm water, and related state

1 clean water responsibilities, and evaluate the costs to the state
2 for maintaining the programs. The committee shall prepare and
3 submit a report, including recommendations on funding the state
4 clean water program, and storm water programs, to the governor,
5 the house of representatives, and the senate no later than
6 December 31, 2008.

7 701.500. 1. As used in sections 701.500 to 701.515, the
8 following terms shall mean:

9 (1) "Department", the department of natural resources;

10 (2) "Director", the director of the department of natural
11 resources;

12 (3) "Energy star program", a joint program of the United
13 States Environmental Protection Agency and the United States
14 Department of Energy that identifies and promotes energy
15 efficient products and practices.

16 2. The provisions of sections 701.500 to 701.515 shall
17 apply to appliances [and consumer electronics that have earned
18 the energy star under the energy star program or] that do not
19 have minimum energy efficiency standards required under federal
20 law.

21 3. No person shall sell, offer for sale, or install any new
22 product listed in subsection 2 of this section in the state
23 unless the product meets the minimum energy efficiency standards
24 under sections 701.500 to 701.515.

25 4. The provisions of sections 701.500 to 701.515 shall not
26 apply to:

27 (1) Consumer electronics; or

28 (2) Products:

1 [(1)] (a) Manufactured in the state and sold outside the
2 state;

3 [(2)] (b) Manufactured outside the state and sold at
4 wholesale inside the state for final retail sale outside the
5 state;

6 [(3)] (c) Installed in mobile manufactured homes at the
7 time of construction; or

8 [(4)] (d) Designed expressly for installation and use in
9 recreational vehicles.

10 701.502. 1. The department shall conduct a study of the
11 energy efficiency of consumer electronic products and report to
12 the general assembly no later than July 1, 2010. The report
13 shall include:

14 (1) An assessment of energy requirements and energy usage
15 of consumer electronic products;

16 (2) Recommendations to consumers regarding appropriate use
17 of consumer electronic products; and

18 (3) Recommendations to consumers regarding the availability
19 of energy efficient consumer electronic products in Missouri.

20 2. The report shall be posted on the department's website
21 and made available to the public upon request.

22 701.503. 1. In conjunction with the advisory group under
23 section 701.509, the director shall promulgate, by rule, the
24 minimum energy efficiency standards for the products in
25 subsection 2 of section 701.500. Any rule or portion of a rule,
26 as that term is defined in section 536.010, RSMo, that is created
27 under the authority delegated in this section shall become
28 effective only if it complies with and is subject to all of the

1 provisions of chapter 536, RSMo, and, if applicable, section
2 536.028, RSMo. This section and chapter 536, RSMo, are
3 nonseverable and if any of the powers vested with the general
4 assembly pursuant to chapter 536, RSMo, to review, to delay the
5 effective date, or to disapprove and annul a rule are
6 subsequently held unconstitutional, then the grant of rulemaking
7 authority and any rule proposed or adopted after August 28, 2008,
8 shall be invalid and void.

9 2. The standards enacted by the director, in conjunction
10 with the advisory group under section 701.509, shall not be more
11 stringent than the federal energy star program requirements [or],
12 if [no] such requirements are applicable[, the minimum standard
13 required by federal law].

14 701.506. In conjunction with the advisory group under
15 section 701.509, the department shall update the minimum energy
16 efficiency standards in section 701.503 not less than once every
17 three years beginning from the date the standards were first
18 promulgated by rule. The purpose of any such update shall be to
19 keep the state standards current with technological advancements
20 and industry practices with regard to energy efficiency, while
21 also giving due consideration to consumer and environmental costs
22 and benefits. The department shall strive to have the standards
23 achieve greater energy efficiency over time in a prudent and
24 reasonable manner. Standards shall not be more stringent than
25 required by the federal energy star program requirements [or], if
26 [no] such requirements are applicable[, the minimum standard
27 required by federal law].

28 Section 1. 1. There is hereby established a joint

1 committee of the general assembly, which shall be known as the
2 "Joint Committee on Missouri's Energy Future", which shall be
3 composed of five members of the senate, with no more than three
4 members of one party, and five members of the house of
5 representatives, with no more than three members of one party.
6 The senate members of the committee shall be appointed by the
7 president pro tem of the senate and the house members by the
8 speaker of the house of representatives. The committee shall
9 select either a chairperson or co-chairpersons, one of whom shall
10 be a member of the senate and one a member of the house of
11 representatives. A majority of the members shall constitute a
12 quorum. Meetings of the committee may be called at such time and
13 place as the chairperson or chairpersons designate.

14 2. The committee shall examine Missouri's present and
15 future energy needs to determine the best strategy to ensure a
16 plentiful, affordable and clean supply of electricity that will
17 meet the needs of the people and businesses of Missouri for the
18 next twenty-five years and ensure that Missourians continue to
19 benefit from low rates for residential, commercial, and
20 industrial energy consumers.

21 3. The joint committee may hold hearings as it deems
22 advisable and may obtain any input or information necessary to
23 fulfill its obligations. The committee may make reasonable
24 requests for staff assistance from the research and
25 appropriations staffs of the house and senate and the committee
26 on legislative research, as well as the department of economic
27 development, department of natural resources, and the public
28 service commission.

4. The joint committee shall prepare a final report, together with its recommendations for any legislative action deemed necessary, for submission to the general assembly by December 31, 2009, at which time the joint committee shall be dissolved.

5. Members of the committee shall receive no compensation but may be reimbursed for reasonable and necessary expenses associated with the performance of their official duties.

_____Section B. Because of the critical need for reliable and affordable energy, section 1 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section 1 of this act shall be in full force and effect upon its passage and approval.

 $\sqrt{}$