

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 734
AN ACT

To repeal sections 644.036, 644.054, 701.500, 701.503, and 701.506, RSMo, and to enact in lieu thereof six new sections relating to programs administered through the department of natural resources.

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

1 Section A. Sections 644.036, 644.054, 701.500, 701.503, and
2 701.506, RSMo, are repealed and six new sections enacted in lieu
3 thereof, to be known as sections 644.036, 644.054, 701.500,
4 701.502, 701.503, and 701.506, to read as follows:

5 644.036. 1. No standard, rule or regulation or any
6 amendment or repeal thereof shall be adopted except after a
7 public hearing to be held after thirty days' prior notice by
8 advertisement of the date, time and place of the hearing and
9 opportunity given to the public to be heard. Notice of the
10 hearings and copies of the proposed standard, rule or regulation
11 or any amendment or repeal thereof shall also be given by regular
12 mail, at least thirty days prior to the scheduled date of the
13 hearing, to any person who has registered with the director for
14 the purpose of receiving notice of such public hearings in
15 accordance with the procedures prescribed by the commission at
16 least forty-five days prior to the scheduled date of the hearing.

1 However, this provision shall not preclude necessary changes
2 during this thirty-day period.

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

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

23 4. Unless prohibited by any federal water pollution control
24 act, any standard, rule or regulation or any amendment or repeal
25 thereof which is adopted by the commission may differ in its
26 terms and provisions as between particular types and conditions
27 of water quality standards or of water contaminants, as between
28 particular classes of water contaminant sources, and as between

1 particular waters of the state.

2 5. Any listing required by Section 303(d) of the federal
3 Clean Water Act, as amended, 33 U.S.C. 1251, et seq., to be sent
4 to the U.S. Environmental Protection Agency for its approval that
5 will result in any waters of the state being classified as
6 impaired shall be adopted by the commission after a public
7 hearing, or series of hearings, held in accordance with the
8 following procedures. The department of natural resources shall
9 publish in at least six regional newspapers, in advance, a notice
10 by advertisement the availability of a proposed list of impaired
11 waters of the state and such notice shall include at least ninety
12 days' advance notice of the date, time, and place of the public
13 hearing and opportunity given to the public to be heard. Notice
14 of the hearings and copies of the proposed list of impaired
15 waters also shall be posted on the department of natural
16 resources' web site and given by regular mail, at least ninety
17 days prior to the scheduled date of the hearing, to any person
18 who has registered with the director for the purpose of receiving
19 notice of such public hearings. The proposed list of impaired
20 waters shall identify the water segment, the uses to be made of
21 such waters, the uses impaired, identify the pollutants causing
22 or expected to cause violations of the applicable water quality
23 standards, and provide a summary of the data relied upon to make
24 the preliminary determination. Contemporaneous with the
25 publication of the notice of public hearing, the department shall
26 make available on its web site all data and information it relied
27 upon to prepare the proposed list of impaired waters, including a
28 narrative explanation of how the department determined the water

1 segment was impaired. At any time after the public notice and
2 until seven days after the public hearing, the department shall
3 accept written comments on the proposed list of impaired waters.
4 After the public hearing and after all written comments have been
5 submitted, the department shall prepare a written response to all
6 comments and a revised list of impaired waters. The commission
7 shall adopt a list of impaired waters in a public meeting during
8 which the public shall be afforded an opportunity to respond to
9 the department's written response to comments and revised list of
10 impaired waters. Notice of the meeting shall include the date,
11 time, and place of the public meeting and shall provide notice
12 that the commission will give interested persons the opportunity
13 to respond to the department's revised list of impaired waters
14 and written responses to comments. At its discretion, the
15 commission may extend public comment periods or hold additional
16 public hearings on the proposed and revised lists of impaired
17 waters. The commission shall not vote to add to the list of
18 impaired waters any waters not recommended by the department in
19 the proposed or revised lists of impaired waters without granting
20 the public at least thirty additional days to comment on the
21 proposed addition. The list of impaired waters adopted by the
22 commission shall not be deemed to be a rule as defined by section
23 536.010, RSMo. The listing of any water segment on the list of
24 impaired waters adopted by the commission shall be subject to
25 judicial review by any adversely affected party under section
26 536.150, RSMo. The provisions in this subsection shall expire on
27 August 28, [2009] 2010.

28 644.054. 1. Fees imposed in sections 644.052 and 644.053

1 shall, except for those fees imposed pursuant to subsection 4 and
2 subsections 6 to 13 of section 644.052, become effective October
3 1, 1990, and shall expire December 31, [2009] 2010. Fees imposed
4 pursuant to subsection 4 and subsections 6 to 13 of section
5 644.052 shall become effective August 28, 2000, and shall expire
6 on December 31, [2009] 2010. The clean water commission shall
7 promulgate rules and regulations on the procedures for billing
8 and collection. All sums received through the payment of fees
9 shall be placed in the state treasury and credited to an
10 appropriate subaccount of the natural resources protection fund
11 created in section 640.220, RSMo. Moneys in the subaccount shall
12 be expended, upon appropriation, solely for the administration of
13 sections 644.006 to 644.141. Fees collected pursuant to
14 subsection 10 of section 644.052 by a city, a public sewer
15 district, a public water district or other publicly owned
16 treatment works are state fees. Five percent of the fee revenue
17 collected shall be retained by the city, public sewer district,
18 public water district or other publicly owned treatment works as
19 reimbursement of billing and collection expenses.

20 2. The commission may grant a variance pursuant to section
21 644.061 to reduce fees collected pursuant to section 644.052 for
22 facilities that adopt systems or technologies that reduce the
23 discharge of water contaminants substantially below the levels
24 required by commission rules.

25 3. Fees imposed in subsections 2 to 6 of section 644.052
26 shall be due on the date of application and on each anniversary
27 date of permit issuance thereafter until the permit is
28 terminated.

1 4. There shall be convened a joint committee appointed by
2 the president pro tem of the senate and the speaker of the house
3 of representatives to consider proposals for restructuring the
4 fees imposed in sections 644.052 and 644.053. The committee
5 shall review storm water programs, the state's implementation of
6 the federal clean water program, storm water, and related state
7 clean water responsibilities, and evaluate the costs to the state
8 for maintaining the programs. The committee shall prepare and
9 submit a report, including recommendations on funding the state
10 clean water program, and storm water programs, to the governor,
11 the house of representatives, and the senate no later than
12 December 31, 2008.

13 701.500. 1. As used in sections 701.500 to 701.515, the
14 following terms shall mean:

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

16 (2) "Director", the director of the department of natural
17 resources;

18 (3) "Energy star program", a joint program of the United
19 States Environmental Protection Agency and the United States
20 Department of Energy that identifies and promotes energy
21 efficient products and practices.

22 2. The provisions of sections 701.500 to 701.515 shall
23 apply to appliances [and consumer electronics that have earned
24 the energy star under the energy star program or] that do not
25 have minimum energy efficiency standards required under federal
26 law.

27 3. No person shall sell, offer for sale, or install any new
28 product listed in subsection 2 of this section in the state

1 unless the product meets the minimum energy efficiency standards
2 under sections 701.500 to 701.515.

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

5 (1) Consumer electronics; or

6 (2) Products:

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

9 [(2)] (b) Manufactured outside the state and sold at
10 wholesale inside the state for final retail sale outside the
11 state;

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

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

16 701.502. 1. The department shall conduct a study of the
17 energy efficiency of consumer electronic products and report to
18 the general assembly no later than July 1, 2010. The report
19 shall include:

20 (1) An assessment of energy requirements and energy usage
21 of consumer electronic products;

22 (2) Recommendations to consumers regarding appropriate use
23 of consumer electronic products; and

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

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

28 701.503. 1. In conjunction with the advisory group under

1 section 701.509, the director shall promulgate, by rule, the
2 minimum energy efficiency standards for the products in
3 subsection 2 of section 701.500. Any rule or portion of a rule,
4 as that term is defined in section 536.010, RSMo, that is created
5 under the authority delegated in this section shall become
6 effective only if it complies with and is subject to all of the
7 provisions of chapter 536, RSMo, and, if applicable, section
8 536.028, RSMo. This section and chapter 536, RSMo, are
9 nonseverable and if any of the powers vested with the general
10 assembly pursuant to chapter 536, RSMo, to review, to delay the
11 effective date, or to disapprove and annul a rule are
12 subsequently held unconstitutional, then the grant of rulemaking
13 authority and any rule proposed or adopted after August 28, 2008,
14 shall be invalid and void.

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

20 701.506. In conjunction with the advisory group under
21 section 701.509, the department shall update the minimum energy
22 efficiency standards in section 701.503 not less than once every
23 three years beginning from the date the standards were first
24 promulgated by rule. The purpose of any such update shall be to
25 keep the state standards current with technological advancements
26 and industry practices with regard to energy efficiency, while
27 also giving due consideration to consumer and environmental costs
28 and benefits. The department shall strive to have the standards

1 achieve greater energy efficiency over time in a prudent and
2 reasonable manner. Standards shall not be more stringent than
3 required by the federal energy star program requirements [or], if
4 [no] such requirements are applicable[, the minimum standard
5 required by federal law].