

HB 1175 -- SMART METERS

SPONSOR: Remole

This bill prohibits an electric utility regulated by the Missouri Public Service Commission, a rural electric cooperative, a municipal utility, or any other utility that sells electrical power to end user individual residences within this state from collecting, storing, using, selling, giving, or transferring to any other person, the content of records obtained by electronic monitoring.

The internal use of the information by utilities for the sole purpose of billing and monitoring electrical usage to comply with local, state, or federal laws and regulations governing the safe and efficient provision of electrical services to the public is allowed.

Electronic monitoring records that contain identifying information related to individual residences must not be retained for more than four years. Aggregate information on power usage that does not identify individual residences as consumers of electricity may be maintained indefinitely by a utility. The transfer of information or failure to destroy information in violation of these provisions must be a civil crime with a penalty of not less than \$10,000 nor more than \$25,000 per violation. A second violation must result in a penalty of not less than \$100,000 nor more than \$200,000. Any court of proper jurisdiction may enforce the civil penalty provisions of these provisions by granting attorney fees. A court may grant injunctive relief, including an order to permanently cease all electronic monitoring and conduct billing by other methods where deemed appropriate.

There must be no implicit waiver of rights; however, a customer may, by his or her express written consent, waive the requirements. A utility must not induce or entice any waiver by the promise of any monetary gain or a reduction in electrical billing charges. The waiver must be in writing, signed, and contain an explicit acknowledgment that the electronic monitoring records may be transferred to third parties by the utility.

A utility utilizing electronic monitoring or smart meter technology on a customer's property must disclose the use to the customer as specified in the bill. A customer may opt out of any electronic monitoring and smart meter usage on his or her property by providing a written, signed declaration to his or her utility which clearly states his or her desire to opt out of electronic monitoring and smart meter usage on his or her property. If a customer opts out of electronic monitoring, the utility must

provide an analog utility meter for the customer at no additional charge.

Any information obtained in violation of the provisions of the bill is inadmissible as evidence in a court of law within this state. If any evidence was actually discovered as a result of information obtained in violation of these provisions, the evidence is inadmissible without regard to any common law doctrine of waiver; any constitutional doctrines of exceptions to inadmissibility; or any local, state, or federal rules of evidence. A prosecutor may introduce evidence of electronic monitoring identifying individual residences where the information is obtained by a proper warrant that is based on the Fourth Amendment standard and state statutory requirements for reasonable suspicion involving other evidence of criminal wrongdoing. However, the evidence must be obtained by a warrant issued prior to the one-year deadline for the destruction of the evidence mandated by these provisions in order to be admissible in a court of law. If any conviction is obtained at a trial by judge and jury where evidence was presented in violation of these provisions, the conviction is null and void, and it must be set aside. No retrial on the same or a lesser included offense must be allowed.