

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1364
99TH GENERAL ASSEMBLY

4591S.06T

2018

AN ACT

To repeal sections 292.606, 319.129, and 414.032, RSMo, and to enact in lieu thereof four new sections relating to petroleum products.

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

Section A. Sections 292.606, 319.129, and 414.032, RSMo, are repealed and four new
2 sections enacted in lieu thereof, to be known as sections 292.606, 319.129, 319.140, and
3 414.032, to read as follows:

292.606. 1. Fees shall be collected for a period of six years from August 28, [2012]
2 **2018**.

3 2. (1) Any employer required to report under subsection 1 of section 292.605, except
4 local governments and family-owned farm operations, shall submit an annual fee to the
5 commission of one hundred dollars along with the Tier II form. Owners or operators of
6 petroleum retail facilities shall pay a fee of no more than fifty dollars for each such facility. Any
7 person, firm or corporation selling, delivering or transporting petroleum or petroleum products
8 and whose primary business deals with petroleum products or who is covered by the provisions
9 of chapter 323, if such person, firm or corporation is paying fees under the provisions of the
10 federal hazardous materials transportation registration and fee assessment program, shall deduct
11 such federal fees from those fees owed to the state under the provisions of this subsection. If the
12 federal fees exceed or are equal to what would otherwise be owed under this subsection, such

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.

13 employer shall not be liable for state fees under this subsection. In relation to petroleum
14 products "primary business" shall mean that the person, firm or corporation shall earn more than
15 fifty percent of hazardous chemical revenues from the sale, delivery or transport of petroleum
16 products. For the purpose of calculating fees, all grades of gasoline are considered to be one
17 product, all grades of heating oils, diesel fuels, kerosenes, naphthas, aviation turbine fuel, and
18 all other heavy distillate products except for grades of gasoline are considered to be one product,
19 and all varieties of motor lubricating oil are considered to be one product. For the purposes of
20 this section "facility" shall mean all buildings, equipment, structures and other stationary items
21 that are located on a single site or on contiguous or adjacent sites and which are owned or
22 operated by the same person. If more than three hazardous substances or mixtures are reported
23 on the Tier II form, the employer shall submit an additional twenty dollar fee for each hazardous
24 substance or mixture. Fees collected under this subdivision shall be for each hazardous chemical
25 on hand at any one time in excess of ten thousand pounds or for extremely hazardous substances
26 on hand at any one time in excess of five hundred pounds or the threshold planning quantity,
27 whichever is less, or for explosives or blasting agents on hand at any one time in excess of one
28 hundred pounds. However, no employer shall pay more than ten thousand dollars per year in
29 fees. Moneys acquired through litigation and any administrative fees paid pursuant to subsection
30 3 of this section shall not be applied toward this cap.

31 (2) Employers engaged in transporting hazardous materials by pipeline except local gas
32 distribution companies regulated by the Missouri public service commission shall pay to the
33 commission a fee of two hundred fifty dollars for each county in which they operate.

34 (3) Payment of fees is due each year by March first. A late fee of ten percent of the total
35 owed, plus one percent per month of the total, may be assessed by the commission.

36 (4) If, on March first of each year, fees collected under this section and natural resources
37 damages made available pursuant to section 640.235 exceed one million dollars, any excess over
38 one million dollars shall be proportionately credited to fees payable in the succeeding year by
39 each employer who was required to pay a fee and who did pay a fee in the year in which the
40 excess occurred. The limit of one million dollars contained herein shall be reviewed by the
41 commission concurrent with the review of fees as required in subsection 1 of this section.

42 3. Beginning January 1, 2013, any employer filing its Tier II form pursuant to subsection
43 1 of section 292.605 may request that the commission distribute that employer's Tier II report
44 to the local emergency planning committees and fire departments listed in its Tier II report. Any
45 employer opting to have the commission distribute its Tier II report shall pay an additional fee
46 of ten dollars for each facility listed in the report at the time of filing to recoup the commission's
47 distribution costs. Fees shall be deposited in the chemical emergency preparedness fund
48 established under section 292.607. An employer who pays the additional fee and whose Tier II

49 report includes all local emergency planning committees and fire departments required to be
50 notified under subsection 1 of section 292.605 shall satisfy the reporting requirements of
51 subsection 1 of section 292.605. The commission shall develop a mechanism for an employer
52 to exercise its option to have the commission distribute its Tier II report.

53 4. Local emergency planning committees receiving funds under section 292.604 shall
54 coordinate with the commission and the department in chemical emergency planning, training,
55 preparedness, and response activities. Local emergency planning committees receiving funds
56 under this section, section 260.394, sections 292.602, 292.604, 292.605, 292.615 and section
57 640.235 shall provide to the commission an annual report of expenditures and activities.

58 5. Fees collected by the department and all funds provided to local emergency planning
59 committees shall be used for chemical emergency preparedness purposes as outlined in sections
60 292.600 to 292.625 and the federal act, including contingency planning for chemical releases;
61 exercising, evaluating, and distributing plans, providing training related to chemical emergency
62 preparedness and prevention of chemical accidents; identifying facilities required to report;
63 processing the information submitted by facilities and making it available to the public; receiving
64 and handling emergency notifications of chemical releases; operating a local emergency planning
65 committee; and providing public notice of chemical preparedness activities. Local emergency
66 planning committees receiving funds under this section may combine such funds with other local
67 emergency planning committees to further the purposes of sections 292.600 to 292.625, or the
68 federal act.

69 6. The commission shall establish criteria and guidance on how funds received by local
70 emergency planning committees may be used.

319.129. 1. There is hereby created a special trust fund to be known as the "Petroleum
2 Storage Tank Insurance Fund" within the state treasury which shall be the successor to the
3 underground storage tank insurance fund. Moneys in such special trust fund shall not be deemed
4 to be state funds. Notwithstanding the provisions of section 33.080 to the contrary, moneys in
5 the fund shall not be transferred to general revenue at the end of each biennium.

6 2. The owner or operator of any underground storage tank, including the state of
7 Missouri and its political subdivisions and public transportation systems, in service on August
8 28, 1989, shall submit to the department a fee of one hundred dollars per tank on or before
9 December 31, 1989. The owner or operator of any underground storage tank who seeks to
10 participate in the petroleum storage tank insurance fund, including the state of Missouri and its
11 political subdivisions and public transportation systems, and whose underground storage tank
12 is brought into service after August 28, 1998, shall transmit one hundred dollars per tank to the
13 board with his or her initial application. Such amount shall be a one-time payment, and shall be
14 in addition to the payment required by section 319.133. The owner or operator of any

15 aboveground storage tank regulated by this chapter, including the state of Missouri and its
16 political subdivisions and public transportation systems, who seeks to participate in the
17 petroleum storage tank insurance fund, shall transmit one hundred dollars per tank to the board
18 with his or her initial application. Such amount shall be a one-time payment and shall be in
19 addition to the payment required by section 319.133. Moneys received pursuant to this section
20 shall be transmitted to the director of revenue for deposit in the petroleum storage tank insurance
21 fund.

22 3. The state treasurer may deposit moneys in the fund in any of the qualified depositories
23 of the state. All such deposits shall be secured in a manner and upon the terms as are provided
24 by law relative to state deposits. Interest earned shall be credited to the petroleum storage tank
25 insurance fund.

26 4. The general administration of the fund and the responsibility for the proper operation
27 of the fund, including all decisions relating to payments from the fund, are hereby vested in a
28 board of trustees. The board of trustees shall consist of the commissioner of administration or
29 the commissioner's designee, the director of the department of natural resources or the director's
30 designee, the director of the department of agriculture or the director's designee, and eight
31 citizens appointed by the governor with the advice and consent of the senate. Three of the
32 appointed members shall be owners or operators of retail petroleum storage tanks, including one
33 tank owner or operator of greater than one hundred tanks; one tank owner or operator of less than
34 one hundred tanks; and one aboveground storage tank owner or operator. One appointed trustee
35 shall represent a financial lending institution, and one appointed trustee shall represent the
36 insurance underwriting industry. One appointed trustee shall represent industrial or commercial
37 users of petroleum. The two remaining appointed citizens shall have no petroleum-related
38 business interest, and shall represent the nonregulated public at large. The members appointed
39 by the governor shall serve four-year terms except that the governor shall designate two of the
40 original appointees to be appointed for one year, two to be appointed for two years, two to be
41 appointed for three years and two to be appointed for four years. Any vacancies occurring on
42 the board shall be filled in the same manner as provided in this section.

43 5. The board shall meet in Jefferson City, Missouri, within thirty days following August
44 28, 1996. Thereafter, the board shall meet upon the written call of the chairman of the board or
45 by the agreement of any six members of the board. Notice of each meeting shall be delivered
46 to all other trustees in person or by registered mail not less than six days prior to the date fixed
47 for the meeting. The board may meet at any time by unanimous mutual consent. There shall be
48 at least one meeting in each quarter.

49 6. Six trustees shall constitute a quorum for the transaction of business, and any official
50 action of the board shall be based on a majority vote of the trustees present.

51 7. The trustees shall serve without compensation but shall receive from the fund their
52 actual and necessary expenses incurred in the performance of their duties for the board.

53 8. The board of trustees shall be a type III agency and shall appoint an executive director
54 and other employees as needed, who shall be state employees and be eligible for all
55 corresponding benefits. The executive director shall have charge of the offices, operations,
56 records, and other employees of the board, subject to the direction of the board. Employees of
57 the board shall receive such salaries and necessary expenses as shall be fixed by the board.

58 9. Staff resources for the Missouri petroleum storage tank insurance fund may be
59 provided by the department of natural resources or another state agency as otherwise specifically
60 determined by the board. The fund shall compensate the department of natural resources or other
61 state agency for all costs of providing staff required by this subsection. Such compensation shall
62 be made pursuant to contracts negotiated between the board and the department of natural
63 resources or other state agency.

64 10. In order to carry out the fiduciary management of the fund, the board may select and
65 employ, or may contract with, persons experienced in insurance underwriting, accounting, the
66 servicing of claims and rate making, and legal counsel to defend third-party claims, who shall
67 serve at the board's pleasure. Invoices for such services shall be presented to the board in
68 sufficient detail to allow a thorough review of the costs of such services.

69 11. At the first meeting of the board, the board shall elect one of its members as
70 chairman. The chairman shall preside over meetings of the board and perform such other duties
71 as shall be required by action of the board.

72 12. The board shall elect one of its members as vice chairman, and the vice chairman
73 shall perform the duties of the chairman in the absence of the latter or upon the chairman's
74 inability or refusal to act.

75 13. The board shall determine and prescribe all rules and regulations as they relate to
76 fiduciary management of the fund, pursuant to the purposes of sections 319.100 to 319.137. In
77 no case shall the board have oversight regarding environmental cleanup standards for petroleum
78 storage tanks.

79 14. No trustee or staff member of the fund shall receive any gain or profit from any
80 moneys or transactions of the fund. This shall not preclude any eligible trustee from making a
81 claim or receiving benefits from the petroleum storage tank insurance fund as provided by
82 sections 319.100 to 319.137.

83 15. The board may reinsure all or a portion of the fund's liability. Any insurer who sells
84 environmental liability insurance in this state may, at the option of the board, reinsure some
85 portion of the fund's liability.

86 16. The petroleum storage tank insurance fund shall expire on December 31, [2020]
87 **2025**, unless extended by action of the general assembly. After December 31, [2020] **2025**, the
88 board of trustees may continue to function for the sole purpose of completing payment of claims
89 made prior to December 31, [2020] **2025**.

90 17. The board shall annually commission an independent financial audit of the petroleum
91 storage tank insurance fund. The board shall biennially commission an actuarial analysis of the
92 petroleum storage tank insurance fund. The results of the financial audit and the actuarial
93 analysis shall be made available to the public. The board may contract with third parties to carry
94 out the requirements of this subsection.

**319.140. 1. There is established a task force of the general assembly to be known
2 as the "Task Force on the Petroleum Storage Tank Insurance Fund". Such task force shall
3 be composed of eight members. Three members shall be from the house of representatives
4 with two appointed by the speaker of the house of representatives and one appointed by
5 the minority floor leader of the house of representatives. Three members shall be from the
6 senate with two appointed by the president pro tempore of the senate and one appointed
7 by the minority floor leader of the senate. Two members shall be industry stakeholders
8 with one appointed by the speaker of the house of representatives and one appointed by
9 the president pro tempore of the senate. No more than two members from either the house
10 of representatives or the senate shall be from the same political party. A majority of the
11 task force shall constitute a quorum.**

12 **2. The task force shall conduct research and compile a report for delivery to the
13 general assembly by December 31, 2018, on the following:**

- 14 **(1) The efficacy of the petroleum storage tank insurance fund and program;**
15 **(2) The sustainability of the petroleum storage tank insurance fund and program;**
16 **(3) The administration of the petroleum storage tank insurance fund and program;**
17 **(4) The availability of private insurance for above and below ground petroleum
18 storage tanks, and the necessity of insurance subsidies created through the petroleum
19 storage tank insurance program;**
20 **(5) Compliance with federal programs, regulations, and advisory reports; and**
21 **(6) The comparability of the petroleum storage tank insurance program to other
22 states' programs and states without such programs.**

23 **3. The task force shall meet within thirty days after its creation and organize by
24 selecting a chairperson and vice chairperson, one of whom shall be a member of the senate
25 and the other a member of the house of representatives. Thereafter, the task force may
26 meet as often as necessary in order to accomplish the tasks assigned to it.**

27 **4. The task force shall be staffed by legislative staff as necessary to assist the task
28 force in the performance of its duties.**

29 **5. The members of the task force shall serve without compensation but shall be**
30 **entitled to reimbursement for actual and necessary expenses incurred in the performance**
31 **of their official duties.**

32 **6. This section shall expire on December 31, 2018.**

414.032. 1. All kerosene, diesel fuel, heating oil, aviation turbine fuel, gasoline,
2 gasoline-alcohol blends and other motor fuels shall meet the requirements in the annual book of
3 ASTM standards and supplements thereto. The director may promulgate rules and regulations
4 on the labeling, standards for, and identity of motor fuels and heating oils.

5 2. The director may inspect gasoline, gasoline-alcohol blends or other motor fuels to
6 insure that these fuels conform to advertised grade and octane. In no event shall the penalty for
7 a first violation of this section exceed a written reprimand.

8 **3. The director may waive specific requirements in this section and in regulations**
9 **promulgated according to this section, or may establish temporary alternative**
10 **requirements for fuels as determined to be necessary in the event of an extreme and**
11 **unusual fuel supply circumstance as a result of a petroleum pipeline or petroleum refinery**
12 **equipment failure, emergency, or a natural disaster as determined by the director for a**
13 **specified period of time. If any action is taken by the director under this section, the**
14 **director shall:**

15 **(1) Advise the U.S. Environmental Protection Agency of such action;**

16 **(2) Review the action after thirty days; and**

17 **(3) Notify industry stakeholders of such action.**

18 **4. Any waiver issued or action taken under subsection 3 of this section shall be as**
19 **limited in scope and applicability as necessary, and shall apply equally and uniformly to**
20 **all persons and companies in the impacted petroleum motor fuel supply and distribution**
21 **system, including but not limited to petroleum producers, terminals, distributors, and**
22 **retailers.**

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