

SECOND REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 1607

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KORMAN.

5367H.01P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 260.262 and 319.129, RSMo, and to enact in lieu thereof two new sections relating to natural resources funds.

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

Section A. Sections 260.262 and 319.129, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 260.262 and 319.129, to read as follows:

260.262. A person selling lead-acid batteries at retail or offering lead-acid batteries for
2 retail sale in the state shall:

3 (1) Accept, at the point of transfer, in a quantity at least equal to the number of new
4 lead-acid batteries purchased, used lead-acid batteries from customers, if offered by customers;

5 (2) Post written notice which must be at least four inches by six inches in size and must
6 contain the universal recycling symbol and the following language:

7 (a) It is illegal to discard a motor vehicle battery or other lead-acid battery;

8 (b) Recycle your used batteries; and

9 (c) State law requires us to accept used motor vehicle batteries, or other lead-acid
10 batteries for recycling, in exchange for new batteries purchased; and

11 (3) Manage used lead-acid batteries in a manner consistent with the requirements of the
12 state hazardous waste law;

13 (4) Collect at the time of sale a fee of fifty cents for each lead-acid battery sold. Such
14 fee shall be added to the total cost to the purchaser at retail after all applicable sales taxes on the
15 battery have been computed. The fee imposed, less six percent of fees collected, which shall be

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.

16 retained by the seller as collection costs, shall be paid to the department of revenue in the form
17 and manner required by the department and shall include the total number of batteries sold
18 during the preceding month. The department of revenue shall promulgate rules and regulations
19 necessary to administer the fee collection and enforcement. The terms "sold at retail" and "retail
20 sales" do not include the sale of batteries to a person solely for the purpose of resale, if the
21 subsequent retail sale in this state is to the ultimate consumer and is subject to the fee. However,
22 this fee shall not be paid on batteries sold for use in agricultural operations upon written
23 certification by the purchaser; and

24 (5) The department of revenue shall administer, collect, and enforce the fee authorized
25 pursuant to this section pursuant to the same procedures used in the administration, collection,
26 and enforcement of the general state sales and use tax imposed pursuant to chapter 144 except
27 as provided in this section. The proceeds of the battery fee, less four percent of the proceeds,
28 which shall be retained by the department of revenue as collection costs, shall be transferred by
29 the department of revenue into the hazardous waste fund, created pursuant to section 260.391.
30 The fee created in subdivision (4) and this subdivision shall be effective October 1, 2005. The
31 provisions of subdivision (4) and this subdivision shall terminate December 31, ~~[2018]~~ **2023**.

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 **2030**, unless extended by action of the general assembly. After December 31, [2020] **2030**, 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] **2030**.

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.

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