

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 779, Page 12, Section 260.392, Line 135, by
2 inserting after all of said section and line the following:
3

4 "260.395. 1. After six months from the effective date of the standards, rules and regulations adopted
5 by the commission pursuant to section 260.370, it shall be unlawful for any person to transport any hazardous
6 waste in this state without first obtaining a hazardous waste transporter license. Any person transporting
7 hazardous waste in this state shall file an application for a license pursuant to this subsection which shall:

8 (1) Be submitted on a form provided for this purpose by the department and shall furnish the
9 department with such equipment identification and data as may be necessary to demonstrate to the
10 satisfaction of the department that equipment engaged in such transportation of hazardous waste, and other
11 equipment as designated in rules and regulations pursuant to sections 260.350 to 260.430, is adequate to
12 provide protection of the health of humans and the environment and to comply with the provisions of any
13 federal hazardous waste management act and sections 260.350 to 260.430 and the standards, rules and
14 regulations adopted pursuant to sections 260.350 to 260.430. If approved by the department, this
15 demonstration of protection may be satisfied by providing certification that the equipment so identified meets
16 and will be operated in accordance with the rules and regulations of the Missouri public service commission
17 and the federal Department of Transportation for the transportation of the types of hazardous materials for
18 which it will be used;

19 (2) Include, as specified by rules and regulations, demonstration of financial responsibility,
20 including, but not limited to, guarantees, liability insurance, posting of bond or any combination thereof
21 which shall be related to the number of units, types and sizes of equipment to be used in the transport of
22 hazardous waste by the applicant;

23 (3) Include, as specified in rules and regulations, a fee payable to the state of Missouri which shall
24 consist of an annual application fee, plus an annual use fee based upon tonnage, mileage or a combination of
25 tonnage and mileage. The fees established pursuant to this subdivision shall be set to generate, as nearly as is
26 practicable, six hundred thousand dollars annually. No fee shall be collected pursuant to this subdivision
27 from railroads that pay a fee pursuant to subsection 18 of this section. Fees collected pursuant to this
28 subdivision shall be deposited in the hazardous waste fund created pursuant to section 260.391.

29 2. If the department determines the application conforms to the provisions of any federal hazardous
30 waste management act and sections 260.350 to 260.430 and the standards, rules and regulations adopted

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1 pursuant to sections 260.350 to 260.430, it shall issue the hazardous waste transporter license with such terms
2 and conditions as it deems necessary to protect the health of humans and the environment. The department
3 shall act within ninety days after receipt of the application. If the department denies the license, it shall issue
4 a report to the applicant stating the reason for denial of the license.

5 3. A license may be suspended or revoked whenever the department determines that the equipment is
6 or has been operated in violation of any provision of sections 260.350 to 260.430 or any standard, rule or
7 regulation, order, or license term or condition adopted or issued pursuant to sections 260.350 to 260.430,
8 poses a threat to the health of humans or the environment, or is creating a public nuisance.

9 4. Whenever a license is issued, renewed, denied, suspended or revoked by the department, any
10 aggrieved person, by petition filed with the administrative hearing commission within thirty days of the
11 decision, may appeal such decision as provided by sections 621.250 and 640.013. Once the administrative
12 hearing commission has reviewed the appeal, the administrative hearing commission shall issue a
13 recommended decision to the commission on license issuance, renewal, denial, suspension, or revocation.
14 The commission shall issue its own decision, based on the appeal, for license issuance, renewal, denial,
15 suspension, or revocation. If the commission changes a finding of fact or conclusion of law made by the
16 administrative hearing commission, or modifies or vacates the decision recommended by the administrative
17 hearing commission, it shall issue its own decision, which shall include findings of fact and conclusions of
18 law. The commission shall mail copies of its final decision to the parties to the appeal or their counsel of
19 record. The commission's decision shall be subject to judicial review pursuant to chapter 536. No judicial
20 review shall be available until and unless all administrative remedies are exhausted.

21 5. A license shall be issued for a period of one year and shall be renewed upon proper application by
22 the holder and a determination by the department that the applicant is in compliance with all provisions of
23 sections 260.350 to 260.430 and all standards, rules and regulations, orders and license terms and conditions
24 adopted or issued pursuant to sections 260.350 to 260.430.

25 6. A license is not required for the transport of any hazardous waste on the premises where it is
26 generated or onto contiguous property owned by the generator thereof, or for those persons exempted in
27 section 260.380. Nothing in this subsection shall be interpreted to preclude the department from inspecting
28 unlicensed hazardous waste transporting equipment and to require that it be adequate to provide protection
29 for the health of humans and the environment.

30 7. After six months from the effective date of the standards, rules and regulations adopted by the
31 commission pursuant to section 260.370, it shall be unlawful for any person to construct, substantially alter or
32 operate, including operations specified in the rules and regulations, a hazardous waste facility without first
33 obtaining a hazardous waste facility permit for such construction, alteration or operation from the department.
34 Such person must submit to the department at least ninety days prior to submitting a permit application a
35 letter of intent to construct, substantially alter or operate any hazardous waste disposal facility. The person
36 must file an application within one hundred eighty days of the filing of a letter of intent unless granted an
37 extension by the commission. The department shall publish such letter of intent as specified in section
38 493.050 within ten days of receipt of such letter. The letter shall be published once each week for four weeks
39 in the county where the hazardous waste disposal facility is proposed. Once such letter is submitted, all

1 conditions for the permit application evaluation purposes in existence as of the date of submission shall be
2 deemed frozen, in that no subsequent action by any person to change such conditions in an attempt to thwart
3 a fair and impartial decision on the application for a permit shall be allowed as grounds for denial of the
4 permit. Any person before constructing, substantially altering or operating a hazardous waste facility in this
5 state shall file an application for a permit which shall:

6 (1) Be submitted on a form provided for this purpose by the department and shall furnish the
7 department with plans, specifications and such other data as may be necessary to demonstrate to the
8 satisfaction of the department that such facility does or will provide adequate protection of the health of
9 humans and the environment and does or will comply with the provisions of any federal hazardous waste
10 management act and sections 260.350 to 260.430 and the standards, rules and regulations adopted pursuant to
11 sections 260.350 to 260.430;

12 (2) Include plans, designs, engineering reports and relevant data for construction, alteration or
13 operation of a hazardous waste facility, to be submitted to the department by a registered professional
14 engineer licensed by this state;

15 (3) Include, as specified by rules and regulations, demonstration of financial responsibility,
16 including, but not limited to, guarantees, liability insurance, posting of bond or any combination thereof,
17 which shall be related to type and size of facility;

18 (4) Include such environmental and geologic information, assessments and studies as required by the
19 rules and regulations of the commission;

20 (5) Include a fee payable to the state of Missouri which shall not exceed one thousand dollars, which
21 shall cover the first year of the permit, if issued, but which is not refundable. If the permit is issued for more
22 than one year, a fee equal in amount to the first year's fee shall be paid to the state of Missouri prior to
23 issuance of the permit for each year the permit is to be in effect beyond the first year;

24 (6) The department shall supervise any field work undertaken to collect geologic and engineering
25 data for submission with the application. The state geologist and departmental engineers shall review the
26 geologic and engineering plans, respectively, and attest to their accuracy and adequacy. The applicant shall
27 pay all reasonable costs, as determined by the commission, incurred by the department pursuant to this
28 subsection.

29 8. (1) Prior to issuing or renewing a hazardous waste facility permit, the department shall issue
30 public notice by press release or advertisement and shall notify all record owners of adjoining property by
31 mail directed to the last known address, and the village, town or city, if any, and the county in which the
32 hazardous waste facility is located; and, upon request, shall hold a public hearing after public notice as
33 required in this subsection at a location convenient to the area affected by the issuance of the permit.

34 (2) Prior to issuing or renewing a hazardous waste disposal facility permit the department shall issue
35 public notice by press release and advertisement and shall notify all record owners of property, within one
36 mile of the outer boundaries of the site, by mail directed to the last known address; and shall hold a public
37 hearing after public notice as required in this subsection at a location convenient to the area affected by the
38 issuance of the permit.

1 9. If the department determines that the application conforms to the provisions of any federal
2 hazardous waste management act and sections 260.350 to 260.430 and the standards, rules and regulations
3 adopted pursuant to sections 260.350 to 260.430, it shall issue the hazardous waste facility permit, with such
4 terms and conditions and require such testing and construction supervision as it deems necessary to protect
5 the health of humans or the environment. The department shall act within one hundred eighty days after
6 receipt of the application. If the department denies the permit, it shall issue a report to the applicant stating
7 the reason for denial of a permit.

8 10. A permit may be suspended or revoked whenever the department determines that the hazardous
9 waste facility is, or has been, operated in violation of any provision of sections 260.350 to 260.430 or any
10 standard, rule or regulation, order or permit term or condition adopted or issued pursuant to sections 260.350
11 to 260.430, poses a threat to the health of humans or the environment or is creating a public nuisance.

12 11. Whenever a permit is issued, renewed, denied, suspended or revoked by the department, any
13 aggrieved person, by petition filed with the administrative hearing commission within thirty days of the
14 decision, may appeal such decision as provided by sections 621.250 and 640.013. Once the administrative
15 hearing commission has reviewed the appeal, the administrative hearing commission shall issue a
16 recommended decision to the commission on permit issuance, renewal, denial, suspension, or revocation.
17 The commission shall issue its own decision, based on the appeal, for permit issuance, renewal, denial,
18 suspension, or revocation. If the commission changes a finding of fact or conclusion of law made by the
19 administrative hearing commission, or modifies or vacates the decision recommended by the administrative
20 hearing commission, it shall issue its own decision, which shall include findings of fact and conclusions of
21 law. The commission shall mail copies of its final decision to the parties to the appeal or their counsel of
22 record. The commission's decision shall be subject to judicial review pursuant to chapter 536, except that the
23 court of appeals district with territorial jurisdiction coextensive with the county where the hazardous waste
24 facility is to be located or is located shall have original jurisdiction. No judicial review shall be available
25 until and unless all administrative remedies are exhausted.

26 12. A permit shall be issued for a fixed term, which shall not exceed ten years in the case of any land
27 disposal facility, storage facility, incinerator, or other treatment facility. Nothing in this subsection shall
28 preclude the department from reviewing and modifying a permit at any time during its term. Review of any
29 application for a permit renewal shall consider improvements in the state of control and measurement
30 technology as well as changes in applicable regulations. Each permit issued pursuant to this section shall
31 contain such terms and conditions as the department determines necessary to protect human health and the
32 environment, and upon proper application by the holder and a determination by the department that the
33 applicant is in compliance with all provisions of sections 260.350 to 260.430 and all standards, rules and
34 regulations, orders and permit terms and conditions adopted or issued pursuant to sections 260.350 to
35 260.430.

36 13. A hazardous waste facility permit is not required for:

37 (1) On-site storage of hazardous wastes where such storage is exempted by the commission by rule
38 or regulation; however, such storage must conform to the provisions of any federal hazardous waste
39 management act and sections 260.350 to 260.430 and the applicable standards, rules and regulations adopted

1 pursuant to sections 260.350 to 260.430 and any other applicable hazardous materials storage and spill-
2 prevention requirements provided by law; or

3 (2) A publicly owned treatment works which has an operating permit pursuant to section 644.051
4 and is in compliance with that permit[;]

5 ~~(3) A resource recovery facility which the department certifies uses hazardous waste as a supplement
6 to, or substitute for, nonwaste material, and that the sole purpose of the facility is manufacture of a product
7 rather than treatment or disposal of hazardous wastes;~~

8 ~~(4) That portion of a facility engaged in hazardous waste resource recovery, when the facility is
9 engaged in both resource recovery and hazardous waste treatment or disposal, provided the owner or operator
10 can demonstrate to the department's satisfaction and the department finds that such portion is not intended
11 and is not used for hazardous waste treatment or disposal].~~

12 14. Facilities exempted pursuant to subsection 13 of this section must comply with the provisions of
13 subdivisions (3) to (7) of subsection 1 of section 260.390 and such other requirements, to be specified by
14 rules and regulations, as are necessary to comply with any federal hazardous waste management act or
15 regulations hereunder. Generators who use such an exempted facility shall keep records of hazardous wastes
16 transported, except by legal flow through sewer lines, to the facility and submit such records to the
17 department in accordance with the provisions of section 260.380 and the standards, rules and regulations
18 adopted pursuant to sections 260.350 to 260.430. ~~[Any person, before constructing, altering or operating a
19 resource recovery facility in this state shall file an application for a certification. Such application shall
20 include:~~

21 ~~(1) Plans, designs, engineering reports and other relevant information as specified by rule that
22 demonstrate that the facility is designed and will operate in a manner protective of human health and the
23 environment; and~~

24 ~~(2) An application fee of not more than five hundred dollars for a facility that recovers waste
25 generated at the same facility or an application fee of not more than one thousand dollars for a facility that
26 recovers waste generated at off-site sources. Such fees shall be deposited in the hazardous waste fund created
27 in section 260.391. The department shall review such application for conformance with applicable laws,
28 rules and standard engineering principles and practices. The applicant shall pay to the department all
29 reasonable costs, as determined by the commission, incurred by the department pursuant to this subsection.
30 All such funds shall be deposited in the hazardous waste fund created in section 260.391.]~~

31 15. The owner or operator of any hazardous waste facility in existence on September 28, 1977, who
32 has achieved federal interim status pursuant to 42 U.S.C. Section 6925(e), and who has submitted to the
33 department Part A of the federal facility permit application, may continue to receive and manage hazardous
34 wastes in the manner as specified in the Part A application, and in accordance with federal interim status
35 requirements, until completion of the administrative disposition of a permit application submitted pursuant to
36 sections 260.350 to 260.430. The department may at any time require submission of, or the owner or
37 operator may at any time voluntarily submit, a complete application for a permit pursuant to sections 260.350
38 to 260.430 and commission regulations. The authority to operate pursuant to this subsection shall cease one
39 hundred eighty days after the department has notified an owner or operator that an application for permit

1 pursuant to sections 260.350 to 260.430 must be submitted, unless within such time the owner or operator
2 submits a completed application therefor. Upon submission of a complete application, the authority to
3 operate pursuant to this subsection shall continue for such reasonable time as is required to complete the
4 administrative disposition of the permit application. If a facility loses its federal interim status, or the
5 Environmental Protection Agency requires the owner or operator to submit Part B of the federal application,
6 the department shall notify the owner or operator that an application for a permit must be submitted pursuant
7 to this subsection. In addition to compliance with the federal interim status requirements, the commission
8 shall have the authority to adopt regulations requiring persons operating pursuant to this subsection to meet
9 additional state interim status requirements.

10 16. No person, otherwise qualified pursuant to sections 260.350 to 260.430 for a license to transport
11 hazardous wastes or for a permit to construct, substantially alter or operate a hazardous waste facility, shall be
12 denied such license or permit on the basis of a lack of need for such transport service or such facility because
13 of the existence of other services or facilities capable of meeting that need; except that permits for hazardous
14 waste facilities may be denied on determination made by the department that the financial resources of the
15 persons applying are such that the continued operation of the sites in accordance with sections 260.350 to
16 260.430 cannot be reasonably assured or on determination made by the department that the probable volume
17 of business is insufficient to ensure and maintain the solvency of then existing permitted hazardous waste
18 facilities.

19 17. All hazardous waste landfills constructed after October 31, 1980, shall have a leachate collection
20 system. The rules and regulations of the commission shall treat and protect all aquifers to the same level of
21 protection. The provisions of this subsection shall not apply to the disposal of tailings and slag resulting from
22 mining, milling and primary smelting operations.

23 18. Any railroad corporation as defined in section 388.010 that transports any hazardous waste as
24 defined in section 260.360 or any hazardous substance as defined in section 260.500 shall pay an annual fee
25 of three hundred fifty dollars. Fees collected pursuant to this subsection shall be deposited in the hazardous
26 waste fund created in section 260.391."; and

27
28 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.