

FIRST REGULAR SESSION

HOUSE BILL NO. 106

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE VERNETTI.

0671H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 444.766, RSMo, and to enact in lieu thereof one new section relating to land reclamation.

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

Section A. Section 444.766, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 444.766, to read as follows:

444.766. 1. No provision of sections 444.760 to 444.790 shall apply to the excavation of minerals or fill dirt for the purposes of construction or land improvement as unrelated to the mining of minerals for a commercial purpose or reclamation of land subsequent to the surface mining of minerals.

2. No permit is required under sections 444.760 to 444.790 for the purpose of moving minerals or fill dirt within the confines of real property where excavation occurs, or for purposes of removing minerals or fill dirt from the real property as provided in this section.

(1) Excavations for construction pursuant to engineering plans and specifications prepared by an architect, professional engineer, or landscape architect licensed pursuant to chapter 327, or any excavation for construction performed under a written contract that requires excavation of minerals or fill dirt, and **the plans and specifications or written contract** establishes dates for completion of work and specifies the terms of payment for work, shall be presumed to be for the purposes of construction and shall not require a permit for surface mining.

(2) Excavations for purposes of land improvement where minerals removed from the site are excess minerals that cannot be used on-site for any practical purpose ~~and at no time are subjected to crushing, screening, or other means of beneficiation with the exception of~~

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.

18 ~~removal of dead trees, decaying vegetation, tree limbs, and stumps]~~ shall be presumed to be
19 for the purposes of land improvement and shall not require a permit for surface mining,
20 provided that:

21 ~~[(a) The site has not been designated as a surface mine by the federal Mine Safety and~~
22 ~~Health Administration;~~

23 ~~(b)]~~ (a) Minerals from the property are not used for commercial purposes on a
24 frequent or ongoing basis; and

25 ~~[(c)]~~ (b) A pit, peak, or ridge does not persist at the site as inconsistent with the
26 purposes of land improvement.

27 (3) Permits shall not be required for the excavation of fill dirt, regardless of the site of
28 disposition or whether construction occurs at the site of excavation.

29 3. (1) If the director or his or her designee determines that a surface mining permit is
30 required for real property which is purported to be for purposes of construction or land
31 improvement not requiring a surface mining permit under this section, such determination
32 shall be sent in writing to the owner of the property by certified mail stating the reasons for
33 such determination. Upon request of the person receiving the letter, an informal conference
34 shall be scheduled with the director within fifteen calendar days to discuss the determination.
35 Following the informal conference, the director shall issue a written determination regarding
36 his or her findings of fact no later than thirty calendar days after the date of the conference. If
37 the director agrees that a surface mining permit is required and the person disagrees with that
38 decision, the person may make a written request for a hearing before the commission at its
39 next regular meeting. Such written request shall be filed within thirty calendar days after
40 receipt of the director's written determination, except when the thirtieth day would be later
41 than the date of the next regularly scheduled commission meeting, the written request shall be
42 filed at least seven days prior to the commission meeting unless the director and the person
43 filing the request mutually agree to place the matter on the commission's agenda for a later
44 meeting. The commission shall issue a written determination as to whether a surface mining
45 permit is required under this state's law within thirty calendar days after the hearing. The
46 written determination may be appealed as provided under this chapter.

47 (2) Until a final written determination has been issued under the process established
48 under subdivision (1) of this subsection, the person receiving a letter stating the reasons a
49 mining permit is required may continue activity at the site in dispute. The commission may
50 stay the director's determination. If the final written determination is that a permit is required,
51 all fees otherwise provided by statute or rules of the commission shall apply. If the
52 determination is that no permit is required, no permit fees shall be required by the director or
53 the commission.

54 (3) The process set out in this subsection for determining whether a mining permit is
55 required shall not be subject to the hearing requirements of section 444.789.

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