

SECOND REGULAR SESSION

HOUSE BILL NO. 2395

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FALKNER.

4633H.01I

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 701.040 and 701.046, RSMo, and to enact in lieu thereof two new sections relating to sewage disposal.

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

Section A. Sections 701.040 and 701.046, RSMo, are repealed and two new sections 2 enacted in lieu thereof, to be known as sections 701.040 and 701.046, to read as follows:
701.040. [+] The department of health and senior services shall:
2 (1) Develop by September 1, 1995, a state standard for the location, size of sewage
3 tanks and length of lateral lines based on the ~~percolation or permeability rate of the~~ soil
4 **properties**, construction, installation, and operation of on-site sewage disposal systems.
5 Advice from the department of natural resources shall be considered. City or county
6 governments may adopt, by order or ordinance, the state standard in accordance with the
7 provisions of sections 701.025 to 701.059. In any jurisdiction where a city or county has not
8 adopted the state standard, the department of health and senior services shall enforce the state
9 standard until such time as the city or county adopts the standard;
10 (2) Define by rule a list of ~~those persons who are qualified to perform the percolation~~
11 ~~tests or~~ **on-site soil evaluators registered by the department to conduct** soils morphology
12 **[tests] evaluations** required by the state standard. The list shall include the following:
13 (a) Persons trained and certified by either the department, which shall include on-site
14 sewage disposal system contractors or a certified agent of the department;
15 (b) Licensed **professional** engineers as defined in section 327.011;
16 (c) Sanitarians meeting standards defined by the department;
17 (d) Qualified geologists as defined in section **[256.501] 256.453**; and

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 (e) "Soil scientists", defined as a person that has successfully completed at least
19 fifteen semester credit hours of soils science course work, including at least three hours of
20 course work in soil morphology and interpretations;

21 (3) Develop in accordance with sections 701.053 to 701.055 a voluntary registration
22 program for on-site sewage disposal system contractors. Approved county programs shall
23 implement the contractor registration program. In any area where a county has not adopted,
24 by order or ordinance, the contractor registration program, the department shall implement
25 the program until such time as the county adopts the registration program;

26 (4) Establish an education training program specifically developed for contractors and
27 city and county employees. ~~Contractors may be taught and allowed to perform percolation~~
28 ~~tests.~~] Reasonable fees may be charged of the participants to cover the cost of the training
29 and shall be deposited in the public health services fund created in section 192.900. The
30 department shall provide, as a part of the education training program, an installation manual
31 for on-site sewage disposal systems. The manual shall also be made available, at the cost of
32 publication and distribution, to persons not participating in the education and training
33 program;

34 (5) ~~Periodically review, but not more than annually, any county's or city's ordinance~~
35 ~~or order and enforcement record to assure that the state standard is being consistently and~~
36 ~~appropriately enforced. In its review the department shall assess the timeliness of the~~
37 ~~county's or city's inspections of on site sewage systems, and county or city enforcement may~~
38 ~~be terminated if the department determines that the county or city is unable to provide prompt~~
39 ~~inspections. If the department determines that the standard is not being consistently or~~
40 ~~appropriately enforced in any city or county, the department shall notify the county or city of~~
41 ~~the department's intent to enforce the standard in that jurisdiction and after thirty days' notice~~
42 ~~hold a public hearing in such county or city to make a determination as to whether the state~~
43 ~~shall enforce the state standard. Any city or county aggrieved by a decision of the department~~
44 ~~may appeal a decision of the department to the state board of health and senior services~~
45 ~~established under section 191.400. Any city or county aggrieved by a decision of the state~~
46 ~~board of health and senior services may appeal that decision to the administrative hearing~~
47 ~~commission in the manner provided in section 621.120]~~ Administer, in accordance with
48 sections 701.025 to 701.059, a mandatory registration program requiring continuing
49 education before January 1, 2027, for on-site wastewater treatment system professionals
50 qualified to perform percolation tests in accordance with the standards promulgated
51 under subdivision (1) of this section. Before January 1, 2027, if a soil morphology
52 evaluation cannot be reasonably obtained, a percolation test may be accepted, at the
53 discretion of the administrative authority. The provisions of this subdivision shall be
54 void and of no effect after December 31, 2026; and

55 (6) Promulgate such rules and regulations as are necessary to carry out the provisions
56 of sections 701.025 to 701.059.

57 [2. Subdivision (5) of this section shall be void and of no effect after January 1,
58 1998.]

701.046. Except as otherwise provided in section 701.031, no person may, on or after
2 September 1, 1995, construct or make a major modification or major repair to an on-site
3 sewage disposal system without first notifying the city, county or department and completing
4 an application, upon a form provided by the department[, and]; submitting [a] **an application**
5 fee in the amount established by the city, county or department; **and obtaining a**
6 **construction permit.** ~~[The fee shall be set at an amount no greater than that necessary to~~
7 ~~cover the cost to implement the state standard for on-site sewage disposal systems and the~~
8 ~~registration of contractors.]~~ For areas of the state where the department is enforcing the state
9 standard or registering contractors, the department shall ~~[establish the fee, by rule, at an~~
10 ~~amount not greater than ninety dollars. The department may charge an additional fee, as~~
11 ~~necessary, to cover the expenses of training those contractors electing to perform the~~
12 ~~percolation tests]~~ **promulgate regulations establishing the conditions and requirements**
13 **for the construction permit application, including the collection of reasonable fees.** The
14 fees shall be set at a level to produce revenue that shall not exceed the cost and expense
15 **of administering the provisions of sections 701.025 to 701.059.** The application form shall
16 require such information necessary to show that the on-site sewage disposal system will
17 comply with the state standard. Such fees, when collected by the department, shall be
18 deposited in the state treasury to the credit of the Missouri public health services fund. The
19 department shall provide technical assistance regarding the type and location of the system to
20 be installed when processing applications received under sections 701.046 to 701.048 and
21 701.050. Fees collected by the department shall be deposited in the Missouri public health
22 services fund created in section 192.900 and shall be used to implement sections 701.025 to
23 701.059 and for no other purpose.

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