

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 426
94TH GENERAL ASSEMBLY

Reported from the Committee on Commerce, Energy and the Environment, April 19, 2007, with recommendation that the Senate Committee Substitute do pass.

1034S.06C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 323.010, 323.020, 323.050, 323.060, 323.075, 323.080, 323.090, and 323.110, RSMo, and to enact in lieu thereof twelve new sections relating to the Missouri propane safety act, with a penalty provision.

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

Section A. Sections 323.010, 323.020, 323.050, 323.060, 323.075, 323.080, 323.090, and 323.110, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 323.005, 323.010, 323.020, 323.025, 323.050, 323.060, 323.075, 323.080, 323.090, 323.105, 323.110, and 323.115, to read as follows:

323.005. This chapter may be cited as the "Missouri Propane Safety Act".

323.010. For the purposes of this chapter, the following words and phrases shall mean:

- (1) "Affiliated industry", any person or firm engaged in the manufacturing, assembling, and marketing of appliances, containers, and products used in the propane industry, the interstate or intrastate transportation or storage of propane, the installation or design of propane piping systems, or other such affiliation with the commercial, residential, or agricultural use of propane by consumers in Missouri;
- (2) "Commission", the Missouri propane gas commission;
- (3) "Compressed natural gas" (CNG), a mixture of hydrocarbon gases and vapors, consisting principally of methane in gaseous form that has been

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

12 compressed for use as a vehicular fuel;

13 **(4) "Director", the executive director of the commission;**

14 **[(2)] (5) "Dispensing station", a system of compressors, safety devices,**
15 **cylinders, piping, fittings, valves, regulators, gauges, relief devices, vents,**
16 **installation fixtures and other compressed natural gas equipment intended for**
17 **use in conjunction with motor vehicle fueling by compressed natural gas but does**
18 **not include a natural gas pipeline located upstream of the inlet of the compressor;**

19 **[(3)] (6) "Liquefied petroleum gas", any material which is composed**
20 **predominantly of any of the following hydrocarbons, or mixtures of the same:**
21 **Propane, propylene, butanes (normal butane or isobutane), and butylenes;**

22 **[(4)] (7) "Motor vehicle", all vehicles except those operated on rails which**
23 **are propelled by internal combustion engines and are used or designed for use in**
24 **the transportation of a person or persons or property;**

25 **(8) "Person", any individual, group of individuals, partnership,**
26 **association, cooperative, corporation, or any other entity;**

27 **(9) "Producer", the owner of the propane at the time it is**
28 **recovered at a manufacturing facility, irrespective of the state where**
29 **production occurs;**

30 **(10) "Propane", propane, butane, mixtures of propane and butane,**
31 **and liquefied petroleum gas, as defined by the National Fire Protection**
32 **Association Standard 58 for the storage and handling of liquefied**
33 **petroleum gases;**

34 **(11) "Public member", a member of the commission who is a**
35 **resident of Missouri, is a user of odorized propane, and is not related**
36 **by the third degree of consanguinity to any retailer or wholesale**
37 **distributor of propane;**

38 **(12) "Retail marketer", a business engaged primarily in selling**
39 **propane gas, its appliances, and equipment to the ultimate consumer**
40 **or to retail propane dispensers;**

41 **(13) "Wholesaler" or "reseller", a seller of propane who is not a**
42 **producer and who does not sell propane to the ultimate consumer.**

323.020. 1. The [director of the department of agriculture] **commission**
2 shall make, promulgate and enforce regulations setting forth general standards
3 covering the design, construction, location, installation and operation of
4 equipment for storing, handling, transporting by tank truck, tank trailer, and
5 utilizing liquefied petroleum gases and specifying the odorization of such gases

6 and the degree thereof. The regulations shall be such as are reasonably
7 necessary for the protection of the health, welfare and safety of the public and
8 persons using such materials, and shall be in substantial conformity with the
9 generally accepted standards of safety concerning the same subject matter. Such
10 regulations shall be adopted by the [director of the department of agriculture]
11 **commission** pursuant to chapter 536, RSMo. Any rule or portion of a rule, as
12 that term is defined in section 536.010, RSMo, that is promulgated under the
13 authority of this chapter, shall become effective only if the [agency] **authority**
14 has fully complied with all of the requirements of chapter 536, RSMo, including
15 but not limited to section 536.028, RSMo, if applicable, after January 1, 1999. All
16 rulemaking authority delegated prior to January 1, 1999, is of no force and effect
17 and repealed as of January 1, 1999, however nothing in this act shall be
18 interpreted to repeal or affect the validity of any rule adopted and promulgated
19 prior to January 1, 1999. If the provisions of section 536.028, RSMo, apply, the
20 provisions of this section are nonseverable and if any of the powers vested with
21 the general assembly pursuant to section 536.028, RSMo, to review, to delay the
22 effective date, or to disapprove and annul a rule or portion of a rule are held
23 unconstitutional or invalid, the purported grant of rulemaking authority and any
24 rule so proposed and contained in the order of rulemaking shall be invalid and
25 void, except that nothing in this act shall affect the validity of any rule adopted
26 and promulgated prior to January 1, 1999.

27 2. Except as specifically provided in subsection 1 of section 323.060,
28 regulations in substantial conformity with the published standards of the
29 National Board of Fire Underwriters for the design, installation and construction
30 of containers and pertinent equipment for the storage and handling of liquefied
31 petroleum gases as recommended by the National Fire Protection Association
32 shall be deemed to be in substantial conformity with the generally accepted
33 standards of safety concerning the same subject matter.

323.025. 1. There is hereby created within the department of
2 **agriculture, the "Missouri Propane Gas Commission", which shall**
3 **constitute a body corporate and politic, an independent instrumentality**
4 **exercising essential public functions. The commission shall ensure the**
5 **administration and enforcement of this chapter and all rules and**
6 **regulations and orders promulgated thereunder. The powers of the**
7 **commission shall be vested in nine commissioners, who shall be**
8 **residents of this state, to be appointed by the governor, by and with the**

9 advice and consent of the senate. The commission shall consist of one
10 member representing multi-state retail marketers of propane, one
11 member representing wholesalers or resellers of propane, one member
12 from a county of the third classification representing retail marketers
13 of propane, one member who is affiliated with the Mechanical
14 Contractors Association in Missouri, one member affiliated with the
15 Plumbing Industry Council, one member representing an affiliated
16 industry, one member representing the department of agriculture, one
17 member representing the department of natural resources, and one
18 public member. The commissioners annually shall elect from among
19 their number a chairman and a vice chairman, and such other officers
20 as they may deem necessary.

21 2. The commissioners shall serve five-year terms, with each term
22 beginning July first and ending on June thirtieth. However, of the
23 commissioners first appointed, two shall be appointed for a term of two
24 years, two shall be appointed for a term of three years, two shall be
25 appointed for a term of four years, and three shall be appointed for a
26 term of five years. Each commissioner appointed thereafter shall be
27 appointed for a term ending five years from the date of expiration of
28 the term for which his predecessor was appointed. A person appointed
29 to fill a vacancy prior to the expiration of such a term shall be
30 appointed for the remainder of the term. No commissioner appointed
31 by the governor under this section shall serve more than one full
32 term. For those commissioners first appointed, if such commissioner
33 serves a term less than five years, each shall be eligible to serve one
34 full five-year term. Each commissioner shall hold office for the term of
35 such appointment and until such successor has been appointed and
36 qualified.

37 3. Other than the public member, commission members shall be
38 full-time employees or owners of businesses in the industry or the
39 agency they represent.

40 4. Notwithstanding the provisions of any other law to the
41 contrary:

42 (1) No officer or employee of this state shall be deemed to have
43 forfeited or shall forfeit such office or employment by reason of his
44 acceptance of membership on the commission or such service to the
45 commission;

46 (2) It shall not constitute a conflict of interest for a director,
47 officer, or employee of any company selling propane at retail or
48 wholesale, or engaged in the manufacture, sale, installation, or
49 distribution of propane-use equipment, the contracting of propane
50 piping systems, or in the transportation, storage, or marketing of
51 propane, or any other firm, person, or corporation, to serve as a
52 member of the commission, provided such trustee, director, officer, or
53 employee shall abstain from deliberation, action, and vote by the
54 commission in each instance where the business affiliation or public
55 office association of any such trustee, director, officer, or employee is
56 involved.

57 5. Commissioners shall receive no compensation for the
58 performance of their duties under this section, but each commissioner
59 shall be reimbursed from the funds of the commission for his or her
60 actual and necessary expenses incurred in carrying out his or her
61 official duties.

62 6. Meetings shall be held at the call of the chairman or whenever
63 two commissioners so request. Five commissioners of the commission
64 shall constitute a quorum, and any action taken by the commission
65 under the provisions of this chapter may be authorized by resolution
66 approved by a majority, but not less than four of the commissioners
67 present at any regular or special meeting. No vacancy in the
68 membership of the commission shall impair the right of a quorum to
69 exercise all the rights and perform all the duties of the commission.

70 7. The commissioners shall employ an executive director. The
71 executive director also shall serve as the secretary for the commission
72 and shall administer, manage, and direct the affairs and business of the
73 commission, subject to the policies, control, and direction of the
74 commissioners. The commission may employ technical experts and
75 such other officers, agents, and employees as deemed necessary, and
76 may fix their qualifications, duties, and compensation.

77 8. The secretary shall keep a record of the proceedings of the
78 commission and shall be custodian of all books, documents, and papers
79 filed with the commission and of its minute book and seal. The
80 secretary shall have the authority to cause to be made copies of all
81 minutes and other records and documents of the commission and to
82 give certificates, under the seal of the commission, to the effect that

83 such copies are true copies, and all persons dealing with the
84 commission may rely upon such certificates. Resolutions of the persons
85 dealing with the commission need not be published or posted unless the
86 commission shall so direct.

87 9. Before entering into his or her duties, each commissioner of
88 the commission shall execute a surety bond for fifty thousand dollars,
89 and the director shall execute a surety bond for one hundred thousand
90 dollars or, in lieu thereof, the chairman of the commission shall execute
91 a blanket bond covering all members, the director, and the employees
92 or other officers of the commission. Each surety bond shall be
93 conditioned on the faithful performance of the duties of the office or
94 offices covered, shall be executed by a surety company authorized to
95 transact business in this state as surety, shall be approved by the
96 attorney general, and shall be filed in the office of the secretary of
97 state. The cost of each such bond shall be paid by the commission.

98 10. At the beginning of each fiscal year, the commission shall
99 prepare and submit for public comment a budget plan, including the
100 probable costs of all programs, projects, and contracts and a
101 recommended rate of assessment as may be necessary to cover such
102 costs. Publication of the proposed budget in the Missouri Register for
103 at least thirty days shall constitute appropriate public notice. The
104 commission shall approve or modify the budget following the public
105 comment period.

106 11. The commission shall, following the close of each fiscal year,
107 submit an annual report of its activities for the preceding year to the
108 department of agriculture, the governor, and the general
109 assembly. Each report shall set forth a complete operating and
110 financial statement for the commission during the fiscal year it covers.
111 At least once in each year, an independent certified public accountant
112 shall audit the books and accounts of the commission.

113 12. The commission shall have the power necessary to:

- 114 (1) Sue and be sued in its own name;
115 (2) Have an official seal and alter the same at pleasure;
116 (3) Have perpetual succession;
117 (4) Maintain an office at such place or places within this state as
118 the commission may designate;
119 (5) Conduct hearings and mediate disputes arising from the

120 enforcement of this chapter;

121 (6) Disperse funds for its lawful activities and fix salaries and
122 wages of its employees; and

123 (7) Exercise all powers necessary or convenient to accomplish its
124 purposes.

125 13. The commission shall have the following duties:

126 (1) Develop comprehensive plans and programs for the
127 prevention, control and abatement of propane-related accidents in
128 Missouri;

129 (2) Mandate a comprehensive certification training program
130 based on the department of agriculture's existing liquified petroleum
131 gas certification and training program;

132 (3) Promulgate by rule by August 28, 2010, a statewide code for
133 the installation of propane-related equipment;

134 (4) Advise, consult, and cooperate with other agencies of the
135 state, the federal government, other states, and interstate agencies, as
136 well as with affected groups, political subdivisions, and industries in
137 furtherance of the purposes of this chapter;

138 (5) Accept gifts, contributions, donations, loans and grants from
139 the federal government and from other sources, public or private, for
140 carrying out any of its functions. Such funds shall not be expended for
141 other than the purposes for which provided;

142 (6) Exercise general supervision of the administration and
143 enforcement of this chapter and all rules, regulations, and orders
144 promulgated hereunder;

145 (7) Suspend any registration filed under this chapter granted to
146 persons or companies doing business under the requirements of this
147 chapter, if such registrant is in violation of any provision of this
148 chapter;

149 (8) Represent the state of Missouri in all matters pertaining to
150 this chapter, including negotiation of interstate compact agreements;

151 (9) To do any act necessary or convenient to the exercise of the
152 powers granted by or reasonably implied from the provisions of this
153 chapter.

154 14. The director may make such investigations as the director
155 deems necessary to carry out effectively the director's responsibilities
156 under this chapter or to determine whether a person has engaged or is

157 engaging in acts or practices that constitute a violation of any
158 provision of this chapter or of any regulation or plan issued under this
159 chapter. For the purpose of any investigation, the director is
160 empowered to administer oaths and affirmations, subpoena witnesses,
161 compel their attendance, take evidence, and require the production of
162 books, papers, and documents which are relevant to the inquiry. Such
163 attendance of witnesses and the production of any such records may be
164 required from any place in this state. In case of contumacy by or
165 refusal to obey a subpoena issued to any person, the director may seek
166 enforcement thereof in the circuit court of proper venue.

167 15. The Missouri propane gas commission is hereby authorized
168 to regulate the inspection of and provide specifications for propane as
169 provided in this section.

170 16. A commissioner shall be removed from office by the governor
171 for misfeasance, malfeasance, or willful neglect of duty or other cause
172 after notice and public hearing, unless such notice or hearing shall be
173 expressly waived in writing.

174 17. The director or any designated employee shall have free
175 access, during reasonable hours, to any premises in the state where an
176 installation covered by this chapter is being constructed, or is being
177 installed, for the purpose of ascertaining whether said installation is
178 being constructed and installed in accordance with the applicable
179 provisions.

323.050. No city, town, village, fire district, or other political subdivision
2 shall adopt or enforce any ordinance or regulation in conflict with the provisions
3 of this chapter, or with the regulations promulgated under section
4 323.020. **Nothing in this section shall prohibit any political subdivision**
5 **from establishing a licensing requirement for persons relating to the**
6 **installation, repair, replacement, or maintenance of liquified petroleum**
7 **gas and all other fuel gas piping systems.**

323.060. 1. No person or company shall engage in this state in the
2 business of selling at retail of liquefied petroleum gas or in the business of
3 handling or transportation of liquefied petroleum gas over the highways of this
4 state without having first registered with the [director of the department of
5 agriculture] **commission**. Registration must be in the appropriate class as
6 determined by the director.

7 2. No person or company shall engage in this state in the business of

8 installing, modifying, repairing, or servicing equipment and appliances for use
9 with liquefied petroleum gas without having first registered with the [director of
10 the department of agriculture] **commission**. Registration must be in the
11 appropriate classes as determined by the director.

12 3. Nonresidents of the state of Missouri desiring to engage in the business
13 of distribution of liquefied petroleum gases at retail, or the business of installing,
14 repairing or servicing equipment and appliances for use of liquefied petroleum
15 gases, shall comply with sections [323.010] **323.005** to 323.110 and rules and
16 regulations promulgated hereunder.

17 4. No person registered pursuant to this section and engaged in this state
18 in the business of selling at retail of liquefied petroleum gas or in the business
19 of handling or transportation of liquefied petroleum gas over the highways of this
20 state shall be liable for actual or punitive civil damages for injury to persons or
21 property that result from any occurrence caused by the installation, modification,
22 repair, or servicing of equipment and appliances for use with liquefied petroleum
23 gas by any other person unless such registered person had received written
24 notification or had other actual knowledge of such installation, modification,
25 repair, or servicing of equipment and appliances and failed to inspect such
26 installation, modification, repair, or servicing of equipment and appliances within
27 thirty days after receipt of such notice or actual knowledge.

28 5. Nothing in this section is intended to limit the liability of any person
29 for any damages that arise directly from the gross negligence or willful or wanton
30 acts of such person.

31 6. All utility operations of public utility companies subject to the safety
32 jurisdiction of the public service commission are exempt from the provisions of
33 this section.

34 7. Persons who only sell liquefied petroleum gas in containers having a
35 capacity of fifty pounds or less that have been filled by another person registered
36 under this chapter are exempt from the provisions of this [section] **chapter**.

323.075. 1. Every person required to be registered under subsection 1 of
2 section 323.060 shall demonstrate financial responsibility for compensating third
3 parties for bodily injury and property damage caused by the release of liquefied
4 petroleum gas. The minimum amount of financial responsibility shall be one
5 million dollars per occurrence with an annual aggregate of two million dollars.

6 2. A person may demonstrate financial responsibility required in
7 subsection 1 of this section either by self insurance or by being insured in the

8 manner set forth in this section.

9 3. A registrant may demonstrate financial responsibility by obtaining
10 liability insurance in the required amounts as an endorsement to an existing
11 policy or as a separate policy issued by an insurance company authorized by the
12 department of insurance to transact the business of insurance in the state of
13 Missouri. The endorsement or policy shall include a requirement that the
14 insurance company deliver a copy of any final notice of cancellation to the
15 [department of agriculture] **commission** at the same time such a notice is
16 provided to the insured. A copy of the certificate of insurance evidencing such
17 coverage shall accompany any original application. The original insurance policy,
18 any relevant endorsements, and the certificate of insurance must be made
19 available upon request for examination and copying by the [department of
20 agriculture] **commission**.

21 4. The [director] **commission** may promulgate regulations governing
22 acceptable forms of self insurance.

23 5. Any rule or portion of a rule, as that term is defined in section 536.010,
24 RSMo, that is created under the authority delegated in this section shall become
25 effective only if it complies with and is subject to all of the provisions of chapter
26 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter
27 536, RSMo, are nonseverable and if any of the powers vested with the general
28 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date,
29 or to disapprove and annul a rule are subsequently held unconstitutional, then
30 the grant of rulemaking authority and any rule proposed or adopted after August
31 28, 2005, shall be invalid and void.

32 [6. The provisions of this section shall become effective on January 1,
33 2006.]

323.080. 1. The [director of the department of agriculture] **commission**
2 may suspend any registration filed hereunder if the registrant violates or fails to
3 comply with any provision of this chapter or the rules and regulations
4 promulgated hereunder until the violation or failure is corrected. It is unlawful
5 to perform any of the acts for which registration is required while a suspension
6 is in effect.

7 2. Before suspension of any registration, written notice shall be given to
8 the registrant setting forth the action contemplated and the reasons
9 therefor. The notice shall state the time and place for a hearing on the
10 contemplated action and shall be sent by registered mail to the registrant at least

11 ten days before the hearing. At the hearing the registrant may present evidence
12 as he deems fit. Upon suspension of a registration, notice shall be sent by
13 registered mail to the last known address of the registrant.

323.090. Any person who is aggrieved by a suspension order of the
2 [director of the department of agriculture] **commission** may appeal from the
3 suspension order within ten days after the mailing of the notice of
4 suspension. The appeal shall be to the circuit court of the county in which such
5 person resides or has his principal place of business. The circuit court shall
6 review the record, permit the presentation of any additional evidence as the
7 parties thereto may desire, determine whether the evidence supports the order
8 of suspension and enter a judgment sustaining or overruling the suspension
9 order.

323.105. 1. The **commission** shall set a fee for odorized propane
2 in the state and shall set the initial assessment at no greater than one-
3 tenth of one cent per gallon. Thereafter, annual assessments shall be
4 sufficient to cover the costs of the plans and programs of the
5 **commission**. The assessment shall not be greater than twenty-five
6 hundredths of one cent per gallon of odorized propane. The assessment
7 may not be raised by more than one-tenth of one cent per gallon
8 annually.

9 2. The owner of propane immediately prior to odorization in this
10 state or the owner of odorized propane at the time of import into this
11 state shall be responsible for the payment of the assessment on the
12 volume of propane at the time of import or odorization, whichever is
13 later. Assessments shall be remitted to the **commission** on a monthly
14 basis by the twenty-fifth of the month following the month of
15 collection. Nonodorized propane shall not be subject to assessment
16 until odorized. For purposes of collection, all propane either odorized
17 at terminal locations in Missouri for delivery to either in-state storage
18 locations or propane odorized at terminal locations outside Missouri
19 and delivered to Missouri as identified on a bill of lading, shall be
20 considered as assessable.

21 3. The **commission** may, by rule, establish an alternative means
22 to collect the assessment if another means is found to be more efficient
23 and effective. The **commission** may by rule establish a late payment
24 charge and rate of interest to be imposed on any person who fails to
25 remit any amount due under this chapter.

26 4. The commission shall set fees for permits, licenses, and
27 certificates required by this chapter. Fees shall be determined by the
28 commission to provide sufficient funds for the operation of the
29 commission and its programs and shall be set by rule promulgated in
30 accordance with the provisions of section 323.020. The commission may
31 alter the fee schedule once every two years. Any funds collected under
32 this section shall be deposited in the propane inspection fund.

33 5. There is hereby created the "Propane Inspection Fund", which
34 shall consist of all funds collected under this section. The fund shall be
35 used solely by the commission for the administration and enforcement
36 of this chapter. Notwithstanding the provisions of section 33.080,
37 RSMo, to the contrary, any moneys remaining in the fund at the end of
38 the biennium shall not revert to the credit of the general revenue
39 fund. Any interest and moneys earned on investments of moneys in the
40 fund shall be credited to the fund.

41 6. No funds collected by the commission shall be used in any
42 manner for influencing legislation or for campaign contributions,
43 except that the commission may recommend to the director changes in
44 this act or other statutes that would further the purpose of the
45 commission.

 323.110. 1. Any person found in violation of any provision of sections
2 [323.010] **323.005** to 323.210 shall be deemed guilty of a class A
3 misdemeanor. The prosecutor of each county in which a violation occurs may
4 bring an action hereunder. But if a prosecutor declines to bring such action, then
5 the attorney general may bring an action instead, and in so doing shall have all
6 the powers and jurisdiction of such prosecutor.

7 2. Any person who is found, upon investigation by the [department of
8 agriculture] **commission**, to be in possible violation of sections [323.010]
9 **323.005** to 323.210 shall be notified by certified mail of the facts constituting
10 such violation, and shall be afforded an opportunity by the [director]
11 **commission** to explain such facts at an informal hearing to be conducted within
12 fourteen days of such notification. In the event that such person fails to timely
13 respond to such notification or upon unsuccessful resolution of any issues relating
14 to an alleged violation, such person may be summoned to a formal administrative
15 hearing before [a department of agriculture hearing officer] **the**
16 **commission**. Said hearing shall be conducted in conformance with chapter 536,

17 RSMo. If any person is found to have committed one or more violations of
18 sections [323.010] **323.005** to 323.210, such person may be ordered to cease and
19 desist from such violation, and the order shall be enforceable in any circuit court
20 of competent jurisdiction, and, in addition, the person may be required to pay a
21 penalty of not more than five hundred dollars per violation and five hundred
22 dollars for each day such violation continues. Any party to such hearing
23 aggrieved by a determination of a hearing officer may, in accordance with chapter
24 536, RSMo, appeal to the circuit court of the county in which such party resides,
25 or if the party is the state, in Cole County.

**323.115. 1. Violations of this chapter may be referred to the
2 attorney general for appropriate action, except that nothing shall be
3 construed as requiring the commission to refer to the attorney general
4 violations of this chapter whenever the commission believes that the
5 administration and enforcement of the regulations would be served
6 adequately by administrative action under subsection 2 of this section
7 or suitable written notice or warning to any person committing the
8 violations.**

**9 2. Any person who fails or refuses to pay, collect, or remit any
10 assessment or fee required of the person by this chapter may be
11 assessed a civil penalty by the commission of not less than five hundred
12 dollars nor more than five thousand dollars for each violation. Each
13 violation shall be a separate offense. In addition, or in lieu of such
14 civil penalty, the commission may issue an order requiring the person
15 to cease-and-desist from continuing the violation. No penalty shall be
16 assessed nor a cease-and-desist order issued unless the person is given
17 notice and opportunity for a hearing before the commission with
18 respect to the violation. The order of the commission assessing a
19 penalty or imposing a cease-and-desist order shall be final and
20 conclusive unless the person affected by the order files a petition for
21 review under chapter 536, RSMo. Any person who fails to obey a cease-
22 and-desist order after it has become final shall be subject to a civil
23 penalty assessed by the commission, after an opportunity for hearing
24 before the commission, of not more than five hundred dollars for each
25 offense. Each day that the failure continues shall be deemed a separate
26 offense. If any person fails to pay an assessment of a civil penalty after
27 it has become a final order, the commission shall refer the matter to the
28 attorney general for recovery of the amount assessed in any**

29 appropriate circuit court of the state. In such action, the validity and
30 appropriateness of the final order imposing the civil penalty shall not
31 be subject to review.

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