SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 664
97TH GENERAL ASSEMBLY
2014

AN ACT
To repeal sections 260.273, 643.055, and 644.145, RSMo, and to enact in lieu thereof five new sections relating to natural resources.

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

Section A. Sections 260.273, 643.055, and 644.145, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 260.273, 643.055, 643.640, 644.058, and 644.145, to read as follows:

260.273. 1. Any person purchasing a new tire may present to the seller the used tire or remains of such used tire for which the new tire purchased is to replace.

2. A fee for each new tire sold at retail shall be imposed on any person engaging in the business of making retail sales of new tires within this state. The fee shall be charged by the retailer to the person who purchases a tire for use and not for resale. Such fee shall be imposed at the rate of fifty cents for each new tire sold. Such fee shall be added to the total cost to the purchaser at retail after all applicable sales taxes on the tires have been computed. The fee imposed, less six percent of fees collected, which shall be retained by the tire retailer as collection costs, shall be paid to the department of revenue in the form and manner required by the department of revenue and shall include the total number of new tires sold during the preceding month. The department of revenue shall promulgate rules and regulations necessary to administer the fee collection and enforcement. The terms "sold at retail" and "retail sales" do not include the

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.
sale of new tires to a person solely for the purpose of resale, if the subsequent retail sale in this state is to the ultimate consumer and is subject to the fee.

3. The department of revenue shall administer, collect and enforce the fee authorized pursuant to this section pursuant to the same procedures used in the administration, collection and enforcement of the general state sales and use tax imposed pursuant to chapter 144 except as provided in this section. The proceeds of the new tire fee, less four percent of the proceeds, which shall be retained by the department of revenue as collection costs, shall be transferred by the department of revenue into an appropriate subaccount of the solid waste management fund, created pursuant to section 260.330.

4. Up to five percent of the revenue available may be allocated, upon appropriation, to the department of natural resources to be used cooperatively with the department of elementary and secondary education for the purposes of developing environmental educational materials, programs, and curriculum that assist in the department’s implementation of sections 260.200 to 260.345.

5. Up to fifty percent of the moneys received pursuant to this section may, upon appropriation, be used to administer the programs imposed by this section. Up to forty-five percent of the moneys received under this section may, upon appropriation, be used for the grants authorized in subdivision (2) of subsection 6 of this section. All remaining moneys shall be allocated, upon appropriation, for the projects authorized in section 260.276, except that any unencumbered moneys may be used for public health, environmental, and safety projects in response to environmental or public health emergencies and threats as determined by the director.

6. The department shall promulgate, by rule, a statewide plan for the use of moneys received pursuant to this section to accomplish the following:

   (1) Removal of waste tires from illegal tire dumps;
   (2) Providing grants to persons that will use products derived from waste tires, or used waste tires as a fuel or fuel supplement; and
   (3) Resource recovery activities conducted by the department pursuant to section 260.276.

7. The fee imposed in subsection 2 of this section shall begin the first day of the month which falls at least thirty days but no more than sixty days immediately following August 28, 2005, and shall terminate January 1, 2020.

643.055. 1. Other provisions of law notwithstanding, the Missouri air
conservation commission shall have the authority to promulgate rules and
guidelines, pursuant to chapter 536, to establish standards and guidelines to
ensure that the state of Missouri is in compliance with the provisions of the
federal Clean Air Act, as amended (42 U.S.C. Section 7401, et seq.). The
standards and guidelines so established shall not be any stricter than those
required under the provisions of the federal Clean Air Act, as amended; nor shall
those standards and guidelines be enforced in any area of the state prior to the
time required by the federal Clean Air Act, as amended. The restrictions of this
section shall not apply to the parts of a state implementation plan developed by
the commission to bring a nonattainment area into compliance and to maintain
compliance when needed to have a United States Environmental Protection
Agency approved state implementation plan. The determination of which parts
of a state implementation plan are not subject to the restrictions of this section
shall be based upon specific findings of fact by the air conservation commission
as to the rules, regulations and criteria that are needed to have a United States
Environmental Protection Agency approved plan.

2. The Missouri air conservation commission shall also have the authority
to grant exceptions and variances from the rules set under subsection 1 of this
section when the person applying for the exception or variance can show that
compliance with such rules:

(1) Would cause economic hardship; or
(2) Is physically impossible; or
(3) Is more detrimental to the environment than the variance would be;
or
(4) Is impractical or of insignificant value under the existing conditions.

3. The department shall not regulate the manufacture,
performance, or use of residential wood burning heaters or appliances
through a state implementation plan or otherwise, unless first
specifically authorized to do so by the general assembly. No rule or
regulation respecting the establishment or the enforcement of
performance standards for residential wood burning heaters or
appliances shall become effective unless and until first approved by the
joint committee on administrative rules.

4. New rules or regulations shall not be applied to existing wood
burning furnaces, stoves, fireplaces, or heaters that individuals are
currently using as their source of heat for their homes or
businesses. All wood burning furnaces, stoves, fireplaces, and heaters existing on August 28, 2014 shall not be subject to any rules or regulations enacted after such date. No employee of the state or a state agency shall enforce any new rules or regulations against such existing wood burning furnaces, stoves, fireplaces, and heaters.

643.640. 1. The commission shall develop emission standards under 42 U.S.C. Section 7411(d) and 40 CFR 60.24 through a unit-by-unit analysis of each existing affected source of carbon dioxide within the state. As used in this section, “unit-by-unit analysis” means an analysis of each generation plant individually, regardless of the number of turbines at each plant site.

2. The commission shall consider in developing and implementing emission standards for each existing affected source of carbon dioxide, among other factors, the remaining useful life of the existing affected source to which such standard applies, consistent with 42 U.S.C. Section 7411(d).

3. The commission shall consider, consistent with its statutory duties to achieve the prevention, abatement, and control of air pollution by all commercially available and economically feasible methods, the overall economic impact from any and all emission standards and compliance schedules developed and implemented under 42 U.S.C. Section 7411(d).

4. The commission may develop, on a unit-by-unit basis for individual existing affected sources and emissions of carbon dioxide at these existing affected sources, consistent with 40 CFR 60.24(f), emission standards that are less stringent, but not more stringent, than applicable federal emission guidelines or longer compliance schedules than those required by federal regulations. This determination shall be based on:

   (1) Unreasonable cost of control resulting from plant age, location, or basic process design;

   (2) Physical impossibility of installing necessary control equipment; or

   (3) Other factors specific to the existing affected source or class of existing affected sources that make application of a less stringent standard or final compliance time significantly more reasonable including, but not limited to, the absolute cost of applying the emission
standard and compliance schedule to the existing affected source; the outstanding debt associated with the existing affected source; the economic impacts of closing the existing affected source, including expected job losses if the existing affected source is unable to comply with the performance standard; and the customer impacts of applying the emission standard and compliance schedule to the existing affected source, including any disproportionate electric rate impacts on low income populations.

5. As required by 40 CFR 60.26, the commission has legal authority to carry out any state implementation plan with emission standards and compliance schedules that are developed and implemented consistent with this chapter.

6. If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this section that can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

644.058. Notwithstanding the provisions of section 644.026 to the contrary, in promulgating water quality standards, the commission shall only revise water quality standards upon the completion of an assessment by the department finding that there is an environmental need for such revision. As part of the implementation of any revised water quality standards modifications of twenty-five percent or more, the department shall conduct an evaluation which shall include the environmental and economic impacts of the revised water quality criteria on a subbasin basis. This evaluation shall be conducted at the eight-digit hydrologic unit code level. The department shall document these evaluations and use them in making individual site-specific permit decisions.

644.145. 1. When issuing permits under this chapter that incorporate a new requirement for discharges from publicly owned combined or separate sanitary or storm sewer systems or treatment works, or when enforcing provisions of this chapter or the Federal Water Pollution Control Act, 33 U.S.C. 1251, et seq., pertaining to any portion of a publicly owned combined or separate sanitary or storm sewer system or treatment works, the department of natural resources shall make a finding of affordability on the costs to be incurred and the impact of any rate changes on ratepayers upon which to base such permits.
and decisions, to the extent allowable under this chapter and the Federal Water Pollution Control Act.

2. (1) The department of natural resources shall not be required under this section to make a finding of affordability when:
   (a) Issuing collection system extension permits;
   (b) Issuing National Pollution Discharge Elimination System operating permit renewals which include no new environmental requirements; or
   (c) The permit applicant certifies that the applicable requirements are affordable to implement or otherwise waives the requirement for an affordability finding; however, at no time shall the department require that any applicant certify, as a condition to approving any permit, administrative or civil action, that a requirement, condition, or penalty is affordable.

   (2) The exceptions provided under paragraph (c) of subdivision (1) of this subsection do not apply when the community being served has less than three thousand three hundred residents.

3. When used in this chapter and in standards, rules and regulations promulgated pursuant to this chapter, the following words and phrases mean:
   (1) "Affordability", with respect to payment of a utility bill, a measure of whether an individual customer or household with an income equal to the lower of the median household income for their community or the state of Missouri can pay the bill without undue hardship or unreasonable sacrifice in the essential lifestyle or spending patterns of the individual or household, taking into consideration the criteria described in subsection 4 of this section;
   (2) "Financial capability", the financial capability of a community to make investments necessary to make water quality-related improvements;
   (3) "Finding of affordability", a department statement as to whether an individual or a household receiving as income an amount equal to the lower of the median household income for the applicant community or the state of Missouri would be required to make unreasonable sacrifices in their essential lifestyle or spending patterns or undergo hardships in order to make the projected monthly payments for sewer services. The department shall make a statement that the proposed changes meet the definition of affordable, or fail to meet the definition of affordable, or are implemented as a federal mandate regardless of affordability.

4. The department of natural resources shall adopt procedures by which
it will make affordability findings that evaluate the affordability of permit requirements and enforcement actions described in subsection 1 of this section, and may begin implementing such procedures prior to promulgating implementing regulations. The commission shall have the authority to promulgate rules to implement this section pursuant to chapters 536 and 644, and shall promulgate such rules as soon as practicable. Affordability findings shall be based upon reasonably verifiable data and shall include an assessment of affordability with respect to persons or entities affected. The department shall offer the permittee an opportunity to review a draft affordability finding, and the permittee may suggest changes and provide additional supporting information, subject to subsection 6 of this section. The finding shall be based upon the following criteria:

1. A community's financial capability and ability to raise or secure necessary funding;
2. Affordability of pollution control options for the individuals or households at or below the median household income level of the community;
3. An evaluation of the overall costs and environmental benefits of the control technologies;
4. Inclusion of ongoing costs of operating and maintaining the existing wastewater collection and treatment system, including payments on outstanding debts for wastewater collection and treatment systems when calculating projected rates;
5. An inclusion of ways to reduce economic impacts on distressed populations in the community, including but not limited to low- and fixed-income populations. This requirement includes but is not limited to:
   a. Allowing adequate time in implementation schedules to mitigate potential adverse impacts on distressed populations resulting from the costs of the improvements and taking into consideration local community economic considerations; and
   b. Allowing for reasonable accommodations for regulated entities when inflexible standards and fines would impose a disproportionate financial hardship in light of the environmental benefits to be gained;
6. An assessment of other community investments and operating costs relating to environmental improvements and public health protection;
"Combined Sewer Overflow Guidance for Financial Capability Assessment and Schedule Development" that may ease the cost burdens of implementing wet weather control plans, including but not limited to small system considerations, the attainability of water quality standards, and the development of wet weather standards; and

(7) An assessment of any other relevant local community economic condition.

5. Prescriptive formulas and measures used in determining financial capability, affordability, and thresholds for expenditure, such as median household income, should not be considered to be the only indicator of a community's ability to implement control technology and shall be viewed in the context of other economic conditions rather than as a threshold to be achieved.

6. Reasonable time spent preparing draft affordability findings, allowing permittees to review draft affordability findings or draft permits, or revising draft affordability findings, shall be allowed in addition to the department's deadlines for making permitting decisions pursuant to section 644.051.

7. If the department of natural resources fails to make a finding of affordability where required by this section, then the resulting permit or decision shall be null, void and unenforceable.

8. The department of natural resources' findings under this section may be appealed to the commission pursuant to subsection 6 of section 644.051.

9. The department shall file an annual report by the beginning of the fiscal year with the governor, the speaker of the house of representatives, the president pro tempore of the senate, and the chairs of the committees in both houses having primary jurisdiction over natural resource issues showing at least the following information on the findings of affordability completed in the previous calendar year:

   (1) The total number of findings of affordability issued by the department, those categorized as affordable, those categorized as not meeting the definition of affordable, and those implemented as a federal mandate regardless of affordability;

   (2) The average increase in sewer rates both in dollars and percentage for all findings found to be affordable;

   (3) The average increase in sewer rates as a percentage of median house income in the communities for those findings determined to be affordable and a separate calculation of average increases in
sewer rates for those found not to meet the definition of affordable;

(4) A list of all the permit holders receiving findings, and for each permittee the following data taken from the finding of affordability shall be listed:

(a) Current and projected monthly residential sewer rates in dollars;

(b) Projected monthly residential sewer rates as a percentage of median house income;

(c) Percentage of households at or below the state poverty rate.