

FIRST REGULAR SESSION

# SENATE BILL NO. 192

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR ENGLER.

Read 1st time January 19, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

1016S.011

## AN ACT

To repeal section 490.733, RSMo, and to enact in lieu thereof one new section relating to hazardous materials.

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

Section A. Section 490.733, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 490.733, to read as follows:

490.733. 1. As used in this section, the term "hazardous materials" means any substance which is capable of posing an unreasonable risk to health, safety and property. It shall include any controlled substance or controlled substance analogue as defined in section 195.010, RSMo, or any substance which by its nature is explosive, flammable, corrosive, poisonous, radioactive, a biological hazard or a material which may cause spontaneous combustion. It shall include, but not be limited to, substances listed in the Table of Hazardous Materials contained in the Code of Federal Regulations-Title 49 and the National Fire Protection Association's Fire Protection Guide on Hazardous Materials.

2. Notwithstanding the provisions of section 575.100, RSMo, [and with the approval of the affected court,] any law enforcement officer who seizes hazardous materials as evidence related to a criminal investigation may collect representative samples of such hazardous materials, and destroy or dispose of, or direct another person to destroy or dispose of the remaining quantity of such hazardous materials. **Once the law enforcement agency has documented the hazardous materials as provided in subsection 3 of this section, the agency may dispose of the representative samples of such materials.**

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

3. **Due to the danger posed by exposure to representative samples of hazardous materials**, in any prosecution, representative samples of hazardous materials accompanied by photographs, videotapes, laboratory analysis reports or other means used to verify and document the identity and quantity of **[the material] hazardous materials** shall be deemed competent evidence of such **[hazardous]** materials and shall be admissible in any proceeding, hearing or trial as if such materials had been introduced as evidence.

4. In any prosecution for violation of chapter 195, RSMo, in which the weight or quantity of a controlled substance is an element of the offense, the weight or quantity of the controlled substance necessary to prove the element of the offense shall be held as evidence; except that, any amount of controlled substance in excess of that which is necessary to prove the offense may be destroyed at the direction of the seizing law enforcement officer. Photographs, videotapes and laboratory analysis reports shall be admissible in any proceeding, hearing or trial as if such excess amount of controlled substances had been introduced as evidence.

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