

FIRST REGULAR SESSION

SENATE BILL NO. 482

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CAUTHORN.

Read 1st time February 28, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

1828S.011

AN ACT

To repeal section 643.079, RSMo, and to enact in lieu thereof one new section relating to air contaminant source fees.

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

Section A. Section 643.079, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 643.079, to read as follows:

643.079. 1. Any air contaminant source required to obtain a permit issued under sections 643.010 to 643.190 shall pay annually beginning April 1, 1993, a fee as provided herein. For the first year the fee shall be twenty-five dollars per ton of each regulated air contaminant emitted. Thereafter, the fee shall be annually set by the commission by rule and shall be at least twenty-five dollars per ton of regulated air contaminant emitted but not more than forty dollars per ton of regulated air contaminant emitted in the previous calendar year. The fee shall be set at an amount consistent with the need to fund the reasonable cost of administering sections 643.010 to 643.190, taking into account other moneys received pursuant to sections 643.010 to 643.190. For the purpose of determining the amount of air contaminant emissions on which the fees authorized under this section are assessed, a facility shall be considered one source under the definition of subsection 2 of section 643.078, except that a facility with multiple operating permits shall pay the emission fees authorized under this section separately for air contaminants emitted under each individual permit.

2. A source which produces charcoal from wood shall pay an annual emission fee under this subsection in lieu of the fee established in subsection 1 of this section. The fee shall be based upon a maximum fee of twenty-five dollars per ton and applied upon each ton of regulated air contaminant emitted for the first four thousand tons of each contaminant emitted in the amount established by the commission pursuant to subsection 1 of this section, reduced according to the following schedule:

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

(1) For fees payable under this subsection in the years 1993 and 1994, the fee shall be reduced by one hundred percent;

(2) For fees payable under this subsection in the years 1995, 1996 and 1997, the fee shall be reduced by eighty percent;

(3) For fees payable under this subsection in the years 1998, 1999 and 2000, the fee shall be reduced by sixty percent.

3. The fees imposed in subsection 2 of this section shall not be imposed or collected after the year 2000 unless the general assembly reimposes the fee.

4. Each air contaminant source with a permit issued under sections 643.010 to 643.190 shall pay the fee for the first four thousand tons of each regulated air contaminant emitted each year but no air contaminant source shall pay fees on total emissions of regulated air contaminants in excess of twelve thousand tons in any calendar year. A permitted air contaminant source which emitted less than one ton of all regulated pollutants shall pay a fee equal to the amount per ton set by the commission. An air contaminant source which pays emission fees to a holder of a certificate of authority issued pursuant to section 643.140 may deduct such fees from any amount due under this section. The fees imposed in this section shall not be applied to carbon oxide emissions. The fees imposed in subsection 1 and this subsection shall not be applied to sulfur dioxide emissions from any Phase I affected unit subject to the requirements of Title IV, section 404, of the federal Clean Air Act, as amended, 42 U.S.C. 7651, et seq., any sooner than January 1, 2000. The fees imposed on emissions from Phase I affected units shall be consistent with and shall not exceed the provisions of the federal Clean Air Act, as amended, and the regulations promulgated thereunder. Any such fee on emissions from any Phase I affected unit shall be reduced by the amount of the service fee paid by that Phase I affected unit pursuant to subsection 8 of this section in that year. Any fees that may be imposed on Phase I sources shall follow the procedures set forth in subsection 1 and this subsection and shall not be applied retroactively.

5. Moneys collected under this section shall be transmitted to the director of revenue for deposit in appropriate subaccounts of the natural resources protection fund created in section 640.220, RSMo. A subaccount shall be maintained for fees paid by air contaminant sources which are required to be permitted under Title V of the federal Clean Air Act, as amended, 42 U.S.C. Section 7661, et seq., and used, upon appropriation, to fund activities by the department to implement the operating permits program authorized by Title V of the federal Clean Air Act, as amended. Another subaccount shall be maintained for fees paid by air contaminant sources which are not required to be permitted under Title V of the federal Clean Air Act as amended, and used, upon appropriation, to fund other air pollution control program activities. Another subaccount shall be maintained for service fees paid under subsection 8 of this section by Phase I affected units which are subject to the requirements

of Title IV, section 404, of the federal Clean Air Act Amendments of 1990, as amended, 42 U.S.C. 7651, and used, upon appropriation, to fund air pollution control program activities. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in the fund shall not revert to general revenue at the end of each biennium. Interest earned by moneys in the subaccounts shall be retained in the subaccounts. The [minimum and maximum limits for] per ton fees established under subsection 1 of this section may be adjusted annually, consistent with the need to fund the reasonable costs of the program, by the same percentage as the percentage change in the general price level as measured by the Consumer Price Index for all Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency, **but not to be less than twenty-five dollars per ton of regulated air contaminant nor more than forty dollars per ton of regulated air contaminant.** The first adjustment shall apply to moneys payable on April 1, 1994, and shall be based upon the general price level for the twelve month period ending on August thirty-first of the previous calendar year.

6. The department may initiate a civil action in circuit court against any air contaminant source which has not remitted the appropriate fees within thirty days. In any judgment against the source, the department shall be awarded interest at a rate determined pursuant to section 408.030, RSMo, and reasonable attorney's fees. In any judgment against the department, the source shall be awarded reasonable attorney's fees.

7. The department shall not suspend or revoke a permit for an air contaminant source solely because the source has not submitted the fees pursuant to this section.

8. Any Phase I affected unit which is subject to the requirements of Title IV, section 404, of the federal Clean Air Act, as amended, 42 U.S.C. 7651, shall pay annually beginning April 1, 1993, and terminating December 31, 1999, a service fee for the previous calendar year as provided herein. For the first year, the service fee shall be twenty-five thousand dollars for each Phase I affected generating unit to help fund the administration of sections 643.010 to 643.190. Thereafter, the service fee shall be annually set by the commission by rule, following public hearing, based on an annual allocation prepared by the department showing the details of all costs and expenses upon which such fees are based consistent with the department's reasonable needs to administer and implement sections 643.010 to 643.190 and to fulfill its responsibilities with respect to Phase I affected units, but such service fee shall not exceed twenty-five thousand dollars per generating unit. Any such Phase I affected unit which is located on one or more contiguous tracts of land with any Phase II generating unit that pays fees under subsection 1 or subsection 2 of this section shall be exempt from paying service fees under this subsection. A "contiguous tract of land" shall be defined to mean adjacent land, excluding public roads, highways and railroads, which is under the control of or owned by the permit holder and operated as a single enterprise.

9. The department of natural resources shall determine the fees due pursuant to this section by the state of Missouri and its departments, agencies and institutions, including two- and four-year institutions of higher education. The director of the department of natural resources shall forward the various totals due to the joint committee on capital improvements and the directors of the individual departments, agencies and institutions. The departments, as part of the budget process, shall annually request by specific line item appropriation funds to pay said fees and capital funding for projects determined to significantly improve air quality. If the general assembly fails to appropriate funds for emissions fees as specifically requested, the departments, agencies and institutions shall pay said fees from other sources of revenue or funds available. The state of Missouri and its departments, agencies and institutions may receive assistance from the small business technical assistance program established pursuant to section 643.173.

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