

FIRST REGULAR SESSION

SENATE BILL NO. 59

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR STOUFFER.

Pre-filed December 1, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

0166S.011

AN ACT

To repeal section 260.750, RSMo, and to enact in lieu thereof two new sections relating to the transportation of radioactive waste.

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

Section A. Section 260.750, RSMo, is repealed and two new sections
2 enacted in lieu thereof, to be known as sections 260.392 and 260.750, to read as
3 follows:

260.392. 1. As used in sections 260.392 to 260.399, the following
2 **terms mean:**

3 (1) "Cask", all the components and systems associated with the
4 container in which spent fuel, high-level radioactive waste, highway
5 route controlled quantity, or transuranic radioactive waste are stored;

6 (2) "Shipper", the generator, owner, or company contracting for
7 transportation by truck or rail of the spent fuel, high-level radioactive
8 waste, highway route controlled quantity shipments, transuranic
9 radioactive waste, or low-level radioactive waste;

10 (3) "High-level radioactive waste", the highly radioactive material
11 resulting from the reprocessing of spent nuclear fuel including liquid
12 waste produced directly in reprocessing and any solid material derived
13 from such liquid waste that contains fission products in sufficient
14 concentrations, and other highly radioactive material that the United
15 States Nuclear Regulatory Commission has determined to be high-level
16 radioactive waste requiring permanent isolation;

17 (4) "Highway route controlled quantity", as defined in 49 CFR
18 Part 173.403, as amended, a quantity of radioactive material within a
19 single package. Highway route controlled quantity shipments of thirty
20 miles or less within the state are exempt from the provisions of this

21 section;

22 (5) "Low-level radioactive waste", any radioactive waste not
23 classified as high-level radioactive waste, transuranic radioactive
24 waste, or spent nuclear fuel by the United States Nuclear Regulatory
25 Commission, consistent with existing law. Shipment of all sealed
26 sources meeting the definition of low-level radioactive waste, shipments
27 of low-level radioactive waste that are within a radius of no more than
28 fifty miles from the point of origin, and all naturally occurring
29 radioactive material given written approval for landfill disposal by the
30 Missouri department of natural resources under 10 CSR 80-3.010 are
31 exempt from the provisions of this section. Any low-level radioactive
32 waste that has a radioactive half-life equal to or less than one hundred
33 twenty days is exempt from the provisions of this section;

34 (6) "Spent nuclear fuel", fuel that has been withdrawn from a
35 nuclear reactor following irradiation, the constituent elements of which
36 have not been separated by reprocessing;

37 (7) "State-funded institutions of higher education", any campus
38 of any university within the state of Missouri that receives state
39 funding and has a nuclear research reactor;

40 (8) "Transuranic radioactive waste", defined in 40 CFR Part
41 191.02, as amended, as waste containing more than one hundred
42 nanocuries of alpha-emitting transuranic isotopes with half-lives
43 greater than twenty years, per gram of waste. For the purposes of this
44 section, transuranic waste shall not include:

45 (a) High-level radioactive wastes;

46 (b) Any waste determined by the Environmental Protection
47 Agency with the concurrence of the Environmental Protection Agency
48 administrator, that does not need the degree of isolation required by
49 this section; or

50 (c) Any waste that the United States Nuclear Regulatory
51 Commission has approved for disposal on a case-by-case basis in
52 accordance with 10 CFR Part 61, as amended.

53 2. Any shipper that ships high-level radioactive waste,
54 transuranic radioactive waste, highway route controlled quantity
55 shipments, spent nuclear fuel, or low-level radioactive waste through
56 or within the state shall be subject to the fees established in this
57 subsection, provided that no state-funded institution of higher

58 education that ships nuclear waste shall pay any such fee. These
59 higher education institutions shall reimburse the Missouri state
60 highway patrol directly for all costs related to shipment escorts. The
61 fees for all other shipments shall be:

62 (1) One thousand eight hundred dollars for each cask
63 transported through or within the state by truck of high-level
64 radioactive waste, transuranic radioactive waste, spent nuclear fuel or
65 highway route controlled quantity shipments. All casks of high-level
66 radioactive waste, transuranic radioactive waste, spent nuclear fuel, or
67 highway route controlled quantity shipments transported by truck are
68 subject to a surcharge of twenty-five dollars per mile for every mile
69 over two hundred miles traveled within the state;

70 (2) One thousand three hundred dollars for the first cask and one
71 hundred twenty-five dollars for each additional cask for each rail
72 shipment through or within the state of high-level radioactive waste,
73 transuranic radioactive waste, or spent nuclear fuel;

74 (3) One hundred twenty-five dollars for each truck or train
75 transporting low-level radioactive waste through or within the
76 state. The department of natural resources may accept an annual
77 shipment fee as negotiated with a shipper or accept payment per
78 shipment.

79 3. All revenue generated from the fees established in subsection
80 2 of this section shall be deposited into the environmental radiation
81 monitoring fund established in section 260.750 and shall be used by the
82 department of natural resources to achieve the following objectives and
83 for purposes related to the shipment of high-level radioactive waste,
84 transuranic radioactive waste, highway route controlled quantity
85 shipments, spent nuclear fuel, or low-level radioactive waste, including,
86 but not limited to:

87 (1) Inspections, escorts, and security for waste shipment and
88 planning;

89 (2) Coordination of emergency response capability;

90 (3) Education and training of state, county, and local emergency
91 responders;

92 (4) Purchase and maintenance of necessary equipment and
93 supplies for state, county, and local emergency responders through
94 grants or other funding mechanisms;

95 (5) Emergency responses to any transportation incident
96 involving the high-level radioactive waste, transuranic radioactive
97 waste, highway route controlled quantity shipments, spent nuclear fuel,
98 or low-level radioactive waste;

99 (6) Oversight of any environmental remediation necessary
100 resulting from an incident involving a shipment of high-level
101 radioactive waste, transuranic radioactive waste, highway route
102 controlled quantity shipments, spent nuclear fuel, or low-level
103 radioactive waste. Reimbursement for oversight of any such incident
104 shall not reduce or eliminate the liability of any party responsible for
105 the incident; such party may be liable for full reimbursement to the
106 state or payment of any other costs associated with the cleanup of
107 contamination related to a transportation incident;

108 (7) Administrative costs attributable to the state agencies which
109 are incurred through their involvement as it relates to the shipment of
110 high-level radioactive waste, transuranic radioactive waste, highway
111 route controlled quantity shipments, spent nuclear fuel, or low-level
112 radioactive waste through or within the state.

113 4. Nothing in this section shall preclude any other state agency
114 from receiving reimbursement from the department of natural
115 resources and the environmental radiation monitoring fund for services
116 rendered that achieve the objectives and comply with the provisions of
117 this section.

118 5. Any unencumbered balance in the environmental radiation
119 monitoring fund that exceeds three hundred thousand dollars in any
120 given fiscal year shall be returned to shippers on a pro rata basis,
121 based on the shipper's contribution into the environmental radiation
122 monitoring fund for that fiscal year.

123 6. The department of natural resources, in coordination with the
124 department of health and senior services and the department of public
125 safety, may promulgate rules necessary to carry out the provisions of
126 this section. Any rule or portion of a rule, as that term is defined in
127 section 536.010, RSMo, that is created under the authority delegated in
128 this section shall become effective only if it complies with and is
129 subject to all of the provisions of chapter 536, RSMo, and, if applicable,
130 section 536.028, RSMo. This section and chapter 536, RSMo, are
131 nonseverable and if any of the powers vested with the general assembly

132 pursuant to chapter 536, RSMo, to review, to delay the effective date,
133 or to disapprove and annul a rule are subsequently held
134 unconstitutional, then the grant of rulemaking authority and any rule
135 proposed or adopted after August 28, 2009, shall be invalid and void.

136 7. All funds deposited in the environmental radiation monitoring
137 fund through fees established in subsection 2 of this section shall be
138 utilized, subject to appropriation by the general assembly, for the
139 administration and enforcement of this section by the department of
140 natural resources. All interest earned by the monies in the fund shall
141 accrue to the fund.

142 8. All fees shall be paid to the department of natural resources
143 prior to shipment.

144 9. Notice of any shipment of high-level radioactive waste,
145 transuranic radioactive waste, highway route controlled quantity
146 shipments, or spent nuclear fuel through or within the state shall be
147 provided by the shipper to the governor's designee for advanced
148 notification, as described in 10 CFR Parts 71 and 73, as amended, prior
149 to such shipment entering the state. Notice of any shipment of low-
150 level radioactive waste through or within the state shall be provided
151 by the shipper to the Missouri department of natural resources before
152 such shipment enters the state.

153 10. Any shipper who fails to pay a fee assessed under this
154 section, or fails to provide notice of a shipment, shall be liable in a civil
155 action for an amount not to exceed ten times the amount assessed and
156 not paid. The action shall be brought by the attorney general at the
157 request of the department of natural resources. If the action involves
158 a facility domiciled in the state, the action shall be brought in the
159 circuit court of the county in which the facility is located. If the action
160 does not involve a facility domiciled in the state, the action shall be
161 brought in the circuit court of Cole county.

162 11. Beginning on December 31, 2009, and every two years
163 thereafter, the department of natural resources shall prepare and
164 submit a report on activities of the environmental radiation monitoring
165 fund to the general assembly. This report shall include information on
166 fee income received and expenditures made by the state to enforce and
167 administer the provisions of this section.

168 12. The provisions of this section shall not apply to high-level

169 radioactive waste, transuranic radioactive waste, highway route
170 controlled quantity shipments, spent nuclear fuel, or low-level
171 radioactive waste shipped by or for the federal government for military
172 or national defense purposes.

173 **13. Under section 23.253, RSMo, of the Missouri sunset act:**

174 **(1) The provisions of the new program authorized under this**
175 **section shall automatically sunset six years after the effective date of**
176 **this section unless reauthorized by an act of the general assembly; and**

177 **(2) If such program is reauthorized, the program authorized**
178 **under this section shall automatically sunset twelve years after the**
179 **effective date of the reauthorization of this section; and**

180 **(3) This section shall terminate on September first of the**
181 **calendar year immediately following the calendar year in which the**
182 **program authorized under this section is sunset.**

260.750. 1. The department of natural resources shall develop an
2 environmental radiation monitoring program for the purpose of monitoring
3 radioactivity in air, water, soil, plant and animal life as necessary to insure the
4 protection of the public health and safety of the environment from radiation
5 hazards.

6 2. There is hereby created within the state treasury an "Environmental
7 Radiation Monitoring Fund". In addition to general revenue, the department of
8 natural resources is authorized to accept and shall deposit in said fund all gifts,
9 bequests, donations, or other moneys, equipment, supplies, or services from any
10 state, interstate or federal agency, or from any institution, person, firm, or
11 corporation, public or private **as well as fees collected under subsection 2**
12 **of section 260.392.** This fund shall be used for the environmental radiation
13 monitoring program established in this section **and to administer and enforce**
14 **the provisions of section 260.392.**

✓