

FIRST REGULAR SESSION  
[ P E R F E C T E D ]  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 100**  
95TH GENERAL ASSEMBLY

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Reported from the Committee on Transportation, February 12, 2009, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 100, adopted February 18, 2009.

Taken up for Perfection February 18, 2009. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

0521S.03P

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**AN ACT**

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

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

Section A. Section 260.750, RSMo, is repealed and three new sections  
2 enacted in lieu thereof, to be known as sections 260.392, 260.401, and 260.750,  
3 to read as 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.

260.401. Each railroad employee who is required to operate,  
2 work on, or ride trains transporting shipments of high level radioactive  
3 waste, transuranic radioactive waste, or spent nuclear fuel within or  
4 through the state of Missouri shall be provided with an operative  
5 dosimeter or a personal radiation monitor capable of recording the  
6 appropriate dosage of radiation emitted by said shipments that he or  
7 she may receive during his or her entire time of exposure and shall be  
8 informed in writing of the individual dose he or she received during his  
9 or her tour of duty. Written notification shall be provided as promptly  
10 as practical, but shall be made no later than ninety days following the  
11 date the employee was finally relieved from all duties associated with  
12 said shipments. Dosimeters or personal radiation monitors shall be  
13 provided by the shipper unless other provisions have been made and  
14 they will be available for use upon entry into the state of Missouri or  
15 initial exit from a facility located within the state.

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.**

Unofficial ✓

Bill

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