FIRST REGULAR SESSION

HOUSE COMMITTEE SUBSTITUTE FOR

SENATE SUBSTITUTE FOR

SENATE BILL NO. 135

96TH GENERAL ASSEMBLY

0583L.05C D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 253.082, 253.090, 260.262, 260.380, 260.475, 260.965, 306.109, 319.132, 414.072, 644.036, and 644.054, RSMo, and to enact in lieu thereof seventeen new sections relating to environmental protection, with penalty provisions and an emergency clause for certain sections.

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

Section A. Sections 253.082, 253.090, 260.262, 260.380, 260.475, 260.965, 306.109, 319.132, 414.072, 644.036, and 644.054, RSMo, are repealed and seventeen new sections enacted in lieu thereof, to be known as sections 253.082, 253.090, 256.055, 260.262, 260.269, 260.380, 260.475, 260.965, 306.109, 319.130, 319.132, 414.072, 640.045, 640.905, 644.036, 644.054, and 1, to read as follows:

253.082. **1.** Upon a request from the director of the department of natural resources, the commissioner of administration shall draw a warrant payable to the facility head of each of the state parks and historic sites in an amount to be specified by the director of the department of natural resources, but such amount shall not exceed the sum of one thousand five hundred dollars for each such facility. The sum so specified shall be placed in the hands of the facility head as a revolving fund to be used in the payment of the incidental expenses of the facility for which he has been appointed and for the refund of fees paid by the public. All expenditures shall be made in accordance with rules and regulations established by the commissioner of administration.

2. Upon a request from the director of the department of natural resources, the commissioner of administration shall draw a warrant payable to the director of the division of state parks in an amount to be specified by the director of the department of

EXPLANATION — Matter enclosed in bold-faced brackets **[**thus**]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

natural resources, but such amount shall not exceed the sum of five hundred dollars. The sum so specified shall be placed in the hands of the director of state parks as a revolving fund to be used in the cash transactions involving the sale of items made by the division of state parks. All transactions shall be made in accordance with rules and regulations established by the commissioner of administration.

253.090. 1. All revenue derived from privileges, conveniences, contracts or otherwise, all moneys received by gifts, bequests or contributions or from county or municipal sources and all moneys received from the operation of concessions, projects or facilities and from resale items shall be paid **[**into the state treasury**]** to the credit of the "State Park Earnings Fund", which is hereby created **in the state treasury. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund**. In the event any state park or any part thereof is taken under the power of eminent domain by the federal government the moneys paid for the taking shall be deposited in the state park earnings fund. The fund shall be used solely for the payment of the expenditures of the department of natural resources in the administration of this law, except that in any fiscal year the department may expend a sum not to exceed fifty percent of the preceding fiscal year's deposits to the state park earnings fund for the purpose of:

(1) Paying the principal and interest of revenue bonds issued;

(2) Providing an interest and sinking fund;

(3) Providing a reasonable reserve fund;

(4) Providing a reasonable fund for depreciation; and

(5) Paying for feasibility reports necessary for the issuing of revenue bonds.

2. **Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.**

3. A good and sufficient bond conditioned upon the faithful performance of the contract and compliance with this law shall be required of all contractors.

[3.**] 4.** Any person who contracts pursuant to this section with the state shall keep true and accurate records of his or her receipts and disbursements arising out of the performance of the contract and shall permit the department of natural resources and the state auditor to audit such records.

[4. All moneys remaining in the state park revolving fund on July 1, 2000, shall be transferred to the state park earnings fund.**]**

256.055. Upon a request from the director of the department of natural resources, the commissioner of administration shall draw a warrant payable to the director of the division of geology and land survey in an amount to be specified by the director of the

department of natural resources, but such amount shall not exceed the sum of five hundred dollars. The sum so specified shall be placed in the hands of the director of the division of geology and land survey as a revolving fund to be used in the cash transactions involving the sale of items made by the division of geology and land survey. All transactions shall be made in accordance with rules and regulations established by the commissioner of administration.

260.262. A person selling lead-acid batteries at retail or offering lead-acid batteries for retail sale in the state shall:

(1) Accept, at the point of transfer, in a quantity at least equal to the number of new lead-acid batteries purchased, used lead-acid batteries from customers, if offered by customers;

(2) Post written notice which must be at least four inches by six inches in size and must contain the universal recycling symbol and the following language:

(a) It is illegal to discard a motor vehicle battery or other lead-acid battery;

(b) Recycle your used batteries; and

(c) State law requires us to accept used motor vehicle batteries, or other lead-acid batteries for recycling, in exchange for new batteries purchased; and

(3) Manage used lead-acid batteries in a manner consistent with the requirements of the state hazardous waste law;

(4) Collect at the time of sale a fee of fifty cents for each lead-acid battery sold. Such fee shall be added to the total cost to the purchaser at retail after all applicable sales taxes on the battery have been computed. The fee imposed, less six percent of fees collected, which shall be retained by the seller as collection costs, shall be paid to the department of revenue in the form and manner required by the department and shall include the total number of batteries 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 sale of batteries 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. However, this fee shall not be paid on batteries sold for use in agricultural operations upon written certification by the purchaser; and

(5) 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 battery 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 the hazardous waste fund, created pursuant to section 260.391. The fee created in subdivision (4) and this subdivision shall be effective October 1, 2005. The

provisions of subdivision (4) and this subdivision shall terminate **[**June 30, 2011**]** **December 31, 2015**.

260.269. Notwithstanding any provision of law to the contrary, the state, including without limitation, any agency or political subdivision thereof, in possession of used tires, scrap tires, or tire shred may transfer possession and ownership of such tires or shred to any in-state private entity to be lawfully disposed of or recycled; provided, such tires or shred are not burned as a fuel; and further provided, such tires shall not be disposed of in a landfill; and still further provided, the cost incurred by the state, agency, or political subdivision transferring such tires or shred is less than the cost the state, agency, or political subdivision would have otherwise incurred had it disposed of such tires or shred. The private entity shall pay for the transportation of such used tires they receive.

260.380. 1. After six months from the effective date of the standards, rules and regulations adopted by the commission pursuant to section 260.370, hazardous waste generators located in Missouri shall:

(1) Promptly file and maintain with the department, on registration forms it provides for this purpose, information on hazardous waste generation and management as specified by rules and regulations. Hazardous waste generators shall pay a one hundred dollar registration fee upon initial registration, and a one hundred dollar registration renewal fee annually thereafter to maintain an active registration. Such fees shall be deposited in the hazardous waste fund created in section 260.391;

(2) Containerize and label all hazardous wastes as specified by standards, rules and regulations;

(3) Segregate all hazardous wastes from all nonhazardous wastes and from noncompatible wastes, materials and other potential hazards as specified by standards, rules and regulations;

(4) Provide safe storage and handling, including spill protection, as specified by standards, rules and regulations, for all hazardous wastes from the time of their generation to the time of their removal from the site of generation;

(5) Unless provided otherwise in the rules and regulations, utilize only a hazardous waste transporter holding a license pursuant to sections 260.350 to 260.430 for the removal of all hazardous wastes from the premises where they were generated;

(6) Unless provided otherwise in the rules and regulations, provide a separate manifest to the transporter for each load of hazardous waste transported from the premises where it was generated. The generator shall specify the destination of such load on the manifest. The manner in which the manifest shall be completed, signed and filed with the department shall be in accordance with rules and regulations;

(7) Utilize for treatment, resource recovery, disposal or storage of all hazardous wastes, only a hazardous waste facility authorized to operate pursuant to sections 260.350 to 260.430 or the federal Resource Conservation and Recovery Act, or a state hazardous waste management program authorized pursuant to the federal Resource Conservation and Recovery Act, or any facility exempted from the permit required pursuant to section 260.395;

(8) Collect and maintain such records, perform such monitoring or analyses, and submit such reports on any hazardous waste generated, its transportation and final disposition, as specified in sections 260.350 to 260.430 and rules and regulations adopted pursuant to sections 260.350 to 260.430;

(9) Make available to the department upon request samples of waste and all records relating to hazardous waste generation and management for inspection and copying and allow the department to make unhampered inspections at any reasonable time of hazardous waste generation and management facilities located on the generator's property and hazardous waste generation and management practices carried out on the generator's property;

(10) Pay annually, on or before January first of each year, effective January 1, 1982, a fee to the state of Missouri to be placed in the hazardous waste fund. The fee shall be five dollars per ton or portion thereof of hazardous waste registered with the department as specified in subdivision (1) of this subsection for the twelve-month period ending June thirtieth of the previous year. However, the fee shall not exceed fifty-two thousand dollars per generator site per year nor be less than one hundred fifty dollars per generator site per year;

(a) All moneys payable pursuant to the provisions of this subdivision shall be promptly transmitted to the department of revenue, which shall deposit the same in the state treasury to the credit of the hazardous waste fund created in section 260.391;

(b) The hazardous waste management commission shall establish and submit to the department of revenue procedures relating to the collection of the fees authorized by this subdivision. Such procedures shall include, but not be limited to, necessary records identifying the quantities of hazardous waste registered, the form and submission of reports to accompany the payment of fees, the time and manner of payment of fees, which shall not be more often than quarterly.

2. Missouri treatment, storage, or disposal facilities shall pay annually, on or before January first of each year, a fee to the department equal to two dollars per ton or portion thereof for all hazardous waste received from outside the state. This fee shall be based on the hazardous waste received for the twelve-month period ending June thirtieth of the previous year.

3. Exempted from the requirements of this section are individual householders and farmers who generate only small quantities of hazardous waste and any person the commission

determines generates only small quantities of hazardous waste on an infrequent basis, except that:

(1) Householders, farmers and exempted persons shall manage all hazardous wastes they may generate in a manner so as not to adversely affect the health of humans, or pose a threat to the environment, or create a public nuisance; and

(2) The department may determine that a specific quantity of a specific hazardous waste requires special management. Upon such determination and after public notice by press release or advertisement thereof, including instructions for handling and delivery, generators exempted pursuant to this subsection shall deliver, but without a manifest or the requirement to use a licensed hazardous waste transporter, such waste to:

(a) Any storage, treatment or disposal site authorized to operate pursuant to sections 260.350 to 260.430 or the federal Resource Conservation and Recovery Act, or a state hazardous waste management program authorized pursuant to the federal Resource Conservation and Recovery Act which the department designates for this purpose; or

(b) A collection station or vehicle which the department may arrange for and designate for this purpose.

4. Failure to pay the fee, or any portion thereof, prescribed in this section by the due date shall result in the imposition of a penalty equal to fifteen percent of the original fee. The fee prescribed in this section shall expire December 31, **[**2011**]** **2015**, except that the department shall levy and collect this fee for any hazardous waste generated prior to such date and reported to the department.

260.475. 1. Every hazardous waste generator located in Missouri shall pay, in addition to the fees imposed in section 260.380, a fee of twenty-five dollars per ton annually on all hazardous waste which is discharged, deposited, dumped or placed into or on the soil as a final action, and two dollars per ton on all other hazardous waste transported off site. No fee shall be imposed upon any hazardous waste generator who registers less than ten tons of hazardous waste annually pursuant to section 260.380, or upon:

(1) Hazardous waste which must be disposed of as provided by a remedial plan for an abandoned or uncontrolled hazardous waste site;

(2) Fly ash waste, bottom ash waste, slag waste and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(3) Solid waste from the extraction, beneficiation and processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore and smelter slag waste from the processing of materials into reclaimed metals;

(4) Cement kiln dust waste;

(5) Waste oil; or

(6) Hazardous waste that is:

(a) Reclaimed or reused for energy and materials;

(b) Transformed into new products which are not wastes;

(c) Destroyed or treated to render the hazardous waste nonhazardous; or

(d) Waste discharged to a publicly owned treatment works.

2. The fees imposed in this section shall be reported and paid to the department on an annual basis not later than the first of January. The payment shall be accompanied by a return in such form as the department may prescribe.

3. All moneys collected or received by the department pursuant to this section shall be transmitted to the department of revenue for deposit in the state treasury to the credit of the hazardous waste fund created pursuant to section 260.391. Following each annual reporting date, the state treasurer shall certify the amount deposited in the fund to the commission.

4. If any generator or transporter fails or refuses to pay the fees imposed by this section, or fails or refuses to furnish any information reasonably requested by the department relating to such fees, there shall be imposed, in addition to the fee determined to be owed, a penalty of fifteen percent of the fee shall be deposited in the hazardous waste fund.

5. If the fees or any portion of the fees imposed by this section are not paid by the date prescribed for such payment, there shall be imposed interest upon the unpaid amount at the rate of ten percent per annum from the date prescribed for its payment until payment is actually made, all of which shall be deposited in the hazardous waste fund.

6. The state treasurer is authorized to deposit all of the moneys in the hazardous waste fund in any of the qualified depositories of the state. All such deposits shall be secured in such a manner and shall be made upon such terms and conditions as are now or may hereafter be provided for by law relative to state deposits. Interest received on such deposits shall be credited to the hazardous waste fund.

7. This fee shall expire December 31, **[**2011**]** **2015**, except that the department shall levy and collect this fee for any hazardous waste generated prior to such date and reported to the department.

260.965. The provisions of sections 260.900 to 260.965 shall expire August 28, **[**2012**]** **2017**.

306.109. 1. No person shall possess or use beer bongs or other drinking devices used to consume similar amounts of alcohol on the rivers of this state. As used in this section, the term "beer bong" includes any device that is intended and designed for the rapid consumption or intake of an alcoholic beverage, including but not limited to funnels, tubes, hoses, and modified containers with additional vents.

2. No person shall possess or use any large volume alcohol containers that hold more than four gallons of an alcoholic beverage on the rivers of this state.

3. **[**No person shall possess expanded polypropylene coolers on or within fifty feet of any river of this state, except in developed campgrounds, picnic areas, landings, roads and parking lots located within fifty feet of such rivers. This subsection shall not apply to high density bait containers used solely for such purpose.

4.**]** Any person who violates the provisions of this section is guilty of a class A misdemeanor.

[5.**] 4.** The provisions of this section shall not apply to persons on the Mississippi River, Missouri River, or Osage River.

319.130. 1. On or before April 1, 2012, the board of trustees of the petroleum storage tank insurance fund shall hold one or more public hearings to determine whether to create and fund an underground storage tank operator training program. The board shall consider at a minimum:

(1) Input from the department of natural resources, the department of agriculture, the board's advisory committee, and affected portions of the private sector;

(2) Relevant deadlines, time frames, costs, and benefits, including federal funding consequences for the state's underground storage tank regulatory program if such a training program is not implemented;

(3) Training programs already in existence in other states;

(4) Training programs already being used by tank owners and operators; and

(5) Such other factors as the board deems necessary and prudent.

2. If after completing the requirements of subsection 1 of this section, the board decides by majority vote to create and fund an underground storage tank operator training program, the training program shall at a minimum:

(1) Satisfy the federal requirements for such a program;

(2) Be developed in collaboration with the department of natural resources, the department of agriculture, the board's advisory committee, and affected portions of the private sector;

(3) Be offered at no cost to those who are required to participate;

(4) Specify standards, reporting, and documentation requirements; and

(5) Be established by rule.

3. The board may contract with one or more third parties to carry out the requirements of this section.

4. At any time after the board creates and funds the underground storage tank operator training program under subsection 2 of this section, the board may, by rule, modify or eliminate the program.

5. Any records created or maintained by the board as part of the underground storage tank operator training program created herein shall be public records under chapter 610 and shall be made readily available to the department of natural resources.

6. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and void.

319.132. 1. The board shall assess a surcharge on all petroleum products within this state which are enumerated by section 414.032. Except as specified by this section, such surcharge shall be administered pursuant to the provisions of subsections 1 to **[**3**] 5** of section 414.102 and subsections 1 and 2 of section 414.152. Such surcharge shall be imposed upon such petroleum products within this state and shall be assessed on each transport load, or the equivalent of an average transport load if moved by other means. All revenue generated by the assessment of such surcharges shall be deposited to the credit of the special trust fund known as the petroleum storage tank insurance fund.

2. Any person who claims to have paid the surcharge in error may file a claim for a refund with the board within three years of the payment. The claim shall be in writing and signed by the person or the person's legal representative. The board's decision on the claim shall be in writing and may be delivered to the person by first class mail. Any person aggrieved by the board's decision may seek judicial review by bringing an action against the board in the circuit court of Cole County pursuant to section 536.150 no later than sixty days following the date the board's decision was mailed. The department of revenue shall not be a party to such proceeding.

3. The board shall assess and annually reassess the financial soundness of the petroleum storage tank insurance fund.

4. (1) The board shall set, in a public meeting with an opportunity for public comment, the rate of the surcharge that is to be assessed on each such transport load or equivalent but such rate shall be no more than sixty dollars per transport load or an equivalent thereof. A transport load shall be deemed to be eight thousand gallons.

(2) The board may increase or decrease the surcharge, up to a maximum of sixty dollars, only after giving at least sixty days' notice of its intention to alter the surcharge; provided however, the board shall not increase the surcharge by more than fifteen dollars in any year. The board must coordinate its actions with the department of revenue to allow adequate time for implementation of the surcharge change.

(3) If the fund's cash balance on the first day of any month exceeds the sum of its liabilities, plus ten percent, the transport load fee shall automatically revert to twenty-five dollars per transport load on the first day of the second month following this event.

(4) Moneys generated by this surcharge shall not be used for any purposes other than those outlined in sections 319.129 through 319.133 and section 319.138. Nothing in this subdivision shall limit the board's authority to contract with the department of natural resources pursuant to section 319.129 to carry out the purposes of the fund as determined by the board.

5. The board shall ensure that the fund retain a balance of at least twelve million dollars but not more than one hundred million dollars. If, at the end of any quarter, the fund balance is above one hundred million dollars, the treasurer shall notify the board thereof. The board shall suspend the collection of fees pursuant to this section beginning on the first day of the first quarter following the receipt of notice. If, at the end of any quarter, the fund balance is below twenty million dollars, the treasurer shall notify the board thereof. The board shall reinstate the collection of fees pursuant to this section beginning on the first day of the first quarter following the receipt of notice.

6. Railroad corporations as defined in section 388.010 and airline companies as defined in section 155.010 shall not be subject to the load fee described in this chapter nor permitted to participate in or make claims against the petroleum storage tank insurance fund created in section 319.129.

414.072. 1. At least every six months, the director shall test and inspect the measuring devices used by any person selling an average of two hundred or more gallons of gasoline, gasoline-alcohol blends, diesel fuel, heating oil, kerosene, or aviation turbine fuel per month at either retail or wholesale in this state, except marine installations, which shall be tested and inspected at least once per year.

2. **The manufacturer's expiration date on motor fuel pump nozzles, hoses, and hose breakaway equipment shall not be the sole factor in requiring the repair or replacement of such devices and equipment nor in the issuance of any fine, penalty, or punishment by the state or any political subdivision. The manufacturer's expiration date on motor fuel pump nozzles, hoses, and hose breakaway equipment shall not impose any new or additional liability on the state, political subdivisions, motor fuel retailers, wholesalers,**

suppliers, and distributors, and the retailers and wholesalers of such devices and equipment.

3. When the director finds that any measuring device does not correctly and accurately register and measure the monetary cost, if applicable, or the volume sold, he shall require the correction, removal, or discontinuance of the same.

[3.**] 4.** Notwithstanding any other law or rule to the contrary, it has been and continues to be the public policy of this state to prohibit gasoline and diesel motor fuel in a retail sale transaction from being dispensed by any measuring device or equipment that is not approved by the department of agriculture or the National Type Evaluation Program (NTEP). **Any automatic volumetric correction device for measuring gasoline, gasoline-alcohol blends, diesel fuel, and diesel fuel-biodiesel blends sold at retail fueling facilities is prohibited by state rule or the automatic adoption or incorporation of national standards or rules unless the device is first specifically authorized and required by state statute.**

640.045. Upon a request from the director of the department of natural resources, the commissioner of administration shall draw a warrant payable to any and all of the directors of the various divisions of the department in amounts to be specified by the director of the department of natural resources, but such amounts shall not exceed the sum of five hundred dollars each. The sum so specified shall be placed in the hands of the director of the relevant division as a revolving fund to be used in the cash transactions involving the sale of items made by that division. All transactions shall be made in accordance with rules and regulations established by the commissioner of administration.

640.905. 1. If engineering plans, specifications, and designs prepared by a registered professional engineer are submitted to the department of natural resources as part of a permit application or permit modification, the permit application or permit modification shall include a statement that the plans, specifications, and designs were prepared in accordance with the applicable requirements and shall be sealed by the registered professional engineer in accordance with section 327.411, as applicable. The department shall use the complete, sealed engineering plans, specifications, and designs as submitted in addition to permit applications and other relevant information, documents, and materials in developing comments on the engineering submittals and in determining whether to issue or deny permits. The review of documents, plans, specifications, and designs sealed by a registered professional engineer for an applicant shall be conducted by a registered professional engineer or an engineering intern on behalf of the department.

2. The department shall designate supervisory registered professional engineers for permitting purposes under this chapter and chapters 260, 278, 319, 444, 643, and 644. Any permit applicant receiving written comments on an engineering submittal may request a

determination from the department's supervisory registered professional engineer as to a final disposition of the department's comments regarding engineering submittals in determining a decision on the permit. The department's supervisory engineer shall inform the permit applicant of a preliminary decision within fifteen days after the permit applicant's request for a determination and shall make a final determination within thirty days of such request.

3. Nothing in this section shall be construed to require plans or other submittals to the department pursuant to an application to come under a general permit or an application for a site specific permit to be prepared by a registered professional engineer, unless otherwise required under state or federal law.

644.036. 1. No standard, rule or regulation or any amendment or repeal thereof shall be adopted except after a public hearing to be held after thirty days' prior notice by advertisement of the date, time and place of the hearing and opportunity given to the public to be heard. Notice of the hearings and copies of the proposed standard, rule or regulation or any amendment or repeal thereof shall also be given by regular mail, at least thirty days prior to the scheduled date of the hearing, to any person who has registered with the director for the purpose of receiving notice of such public hearings in accordance with the procedures prescribed by the commission at least forty-five days prior to the scheduled date of the hearing. However, this provision shall not preclude necessary changes during this thirty-day period.

2. At the hearing, opportunity to be heard by the commission with respect to the subject thereof shall be afforded any interested person upon written request to the commission, addressed to the director, not later than seven days prior to the hearing, and may be afforded to other persons if convenient. In addition, any interested persons, whether or not heard, may submit, within seven days subsequent to the hearings, a written statement of their views. The commission may solicit the views, in writing, of persons who may be affected by, or interested in, proposed rules and regulations, or standards. Any person heard or represented at the hearing or making written request for notice shall be given written notice of the action of the commission with respect to the subject thereof.

3. Any standard, rule or regulation or amendment or repeal thereof shall not be deemed adopted or in force and effect until it has been approved in writing by at least four members of the commission. A standard, rule or regulation or an amendment or repeal thereof shall not become effective until a certified copy thereof has been filed with the secretary of state as provided in chapter 536.

4. Unless prohibited by any federal water pollution control act, any standard, rule or regulation or any amendment or repeal thereof which is adopted by the commission may differ in its terms and provisions as between particular types and conditions of water quality standards

or of water contaminants, as between particular classes of water contaminant sources, and as between particular waters of the state.

5. Any listing required by Section 303(d) of the federal Clean Water Act, as amended, 33 U.S.C. 1251, et seq., to be sent to the U.S. Environmental Protection Agency for its approval that will result in any waters of the state being classified as impaired shall be adopted by the commission after a public hearing, or series of hearings, held in accordance with the following procedures. The department of natural resources shall publish in at least six regional newspapers, in advance, a notice by advertisement the availability of a proposed list of impaired waters of the state and such notice shall include at least ninety days' advance notice of the date, time, and place of the public hearing and opportunity given to the public to be heard. Notice of the hearings and copies of the proposed list of impaired waters also shall be posted on the department of natural resources' website and given by regular mail, at least ninety days prior to the scheduled date of the hearing, to any person who has registered with the director for the purpose of receiving notice of such public hearings. The proposed list of impaired waters shall identify the water segment, the uses to be made of such waters, the uses impaired, identify the pollutants causing or expected to cause violations of the applicable water quality standards, and provide a summary of the data relied upon to make the preliminary determination. Contemporaneous with the publication of the notice of public hearing, the department shall make available on its website all data and information it relied upon to prepare the proposed list of impaired waters, including a narrative explanation of how the department determined the water segment was impaired. At any time after the public notice and until seven days after the public hearing, the department shall accept written comments on the proposed list of impaired waters. After the public hearing and after all written comments have been submitted, the department shall prepare a written response to all comments and a revised list of impaired waters. The commission shall adopt a list of impaired waters in a public meeting during which the public shall be afforded an opportunity to respond to the department's written response to comments and revised list of impaired waters. Notice of the meeting shall include the date, time, and place of the public meeting and shall provide notice that the commission will give interested persons the opportunity to respond to the department's revised list of impaired waters and written responses to comments. At its discretion, the commission may extend public comment periods or hold additional public hearings on the proposed and revised lists of impaired waters. The commission shall not vote to add to the list of impaired waters any waters not recommended by the department in the proposed or revised lists of impaired waters without granting the public at least thirty additional days to comment on the proposed addition. The list of impaired waters adopted by the commission shall not be deemed to be a rule as defined by section 536.010. The listing of any water segment on the list of impaired waters adopted by the commission shall be subject

to judicial review by any adversely affected party under section 536.150. The provisions in this subsection shall expire on August 28, **[**2010**] 2015**.

644.054. 1. Fees imposed in sections 644.052 and 644.053 shall, except for those fees imposed pursuant to subsection 4 and subsections 6 to 13 of section 644.052, become effective October 1, 1990, and shall expire December 31, **[**2010**] 2015**. Fees imposed pursuant to subsection 4 and subsections 6 to 13 of section 644.052 shall become effective August 28, 2000, and shall expire on December 31, **[**2010**] 2015**. The clean water commission shall promulgate rules and regulations on the procedures for billing and collection. All sums received through the payment of fees shall be placed in the state treasury and credited to an appropriate subaccount of the natural resources protection fund created in section 640.220. Moneys in the subaccount shall be expended, upon appropriation, solely for the administration of sections 644.006 to 644.141. Fees collected pursuant to subsection 10 of section 644.052 by a city, a public sewer district, a public water district or other publicly owned treatment works are state fees. Five percent of the fee revenue collected shall be retained by the city, public sewer district, public water district or other publicly owned treatment works as reimbursement of billing and collection expenses.

2. The commission may grant a variance pursuant to section 644.061 to reduce fees collected pursuant to section 644.052 for facilities that adopt systems or technologies that reduce the discharge of water contaminants substantially below the levels required by commission rules.

3. Fees imposed in subsections 2 to 6 of section 644.052 shall be due on the date of application and on each anniversary date of permit issuance thereafter until the permit is terminated.

Section 1. Notwithstanding any other law or rule to the contrary, only the department of natural resources shall set stage 1 and 2 motor fuel vapor recovery fees, including permit and construction fees, which shall be uniform across the state and which shall not be modified, expanded, or increased by political subdivisions or local enforcement agencies.

Section B. Because immediate action is necessary to maintain regulatory oversight by the state of Missouri, the repeal and reenactment of sections 253.090, 260.262, 260.380, 260.475, 644.036, and 644.054 of section A of this act are deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and are hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 253.090, 260.262, 260.380, 260.475, 644.036, and 644.054 of section A of this act shall be in full force and effect upon its passage and approval.