

FIRST REGULAR SESSION

[P E R F E C T E D]

SENATE SUBSTITUTE FOR

SENATE BILL NO. 135

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHAEFER.

Offered March 8, 2011.

Senate Substitute adopted, March 8, 2011.

Taken up for Perfection March 8, 2011. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

0583S.03P

AN ACT

To repeal sections 260.965 and 414.072, RSMo, and to enact in lieu thereof four new sections relating to environmental protection.

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

Section A. Sections 260.965 and 414.072, RSMo, are repealed and four
2 new sections enacted in lieu thereof, to be known as sections 260.965, 319.130,
3 414.072, and 1, to read as follows:

260.965. The provisions of sections 260.900 to 260.965 shall expire August
2 28, [2012] 2017.

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

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

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

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

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

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

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

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

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

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

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

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

28 (5) Be established by rule.

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

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

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

38 6. Any rule or portion of a rule, as that term is defined in section
39 536.010, that is created under the authority delegated in this section
40 shall become effective only if it complies with and is subject to all of
41 the provisions of chapter 536 and, if applicable, section 536.028. This
42 section and chapter 536 are nonseverable and if any of the powers
43 vested with the general assembly under chapter 536 to review, to delay
44 the effective date, or to disapprove and annul a rule are subsequently
45 held unconstitutional, then the grant of rulemaking authority and any
46 rule proposed or adopted after August 28, 2011, shall be invalid and
47 void.

414.072. 1. At least every six months, the director shall test and inspect
2 the measuring devices used by any person selling an average of two hundred or

3 more gallons of gasoline, gasoline-alcohol blends, diesel fuel, heating oil,
4 kerosene, or aviation turbine fuel per month at either retail or wholesale in this
5 state, except marine installations, which shall be tested and inspected at least
6 once per year.

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

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

21 **[3.] 4.** Notwithstanding any other law or rule to the contrary, it has been
22 and continues to be the public policy of this state to prohibit gasoline and diesel
23 motor fuel in a retail sale transaction from being dispensed by any measuring
24 device or equipment that is not approved by the department of agriculture or the
25 National Type Evaluation Program (NTEP). **Any automatic volumetric**
26 **correction device for measuring gasoline, gasoline-alcohol blends,**
27 **diesel fuel, and diesel fuel-biodiesel blends sold at retail fueling**
28 **facilities is prohibited by state rule or the automatic adoption or**
29 **incorporation of national standards or rules unless the device is first**
30 **specifically authorized and required by state statute.**

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