

SECOND REGULAR SESSION

SENATE BILL NO. 868

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KEHOE.

Read 1st time February 29, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

5722S.021

AN ACT

To repeal section 292.606, RSMo, and to enact in lieu thereof one new section relating to the Missouri emergency response commission.

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

Section A. Section 292.606, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 292.606, to read as follows:

292.606. 1. Fees shall be collected for a period of [twenty] **six** years from
2 August 28, [1992] **2012**.

3 2. (1) Any employer required to report under subsection 1 of section
4 292.605, except local governments and family-owned farm operations, shall
5 submit an annual fee to the commission of one hundred dollars along with the
6 Tier II form. Owners or operators of petroleum retail facilities shall pay a fee of
7 no more than fifty dollars for each such facility. Any person, firm or corporation
8 selling, delivering or transporting petroleum or petroleum products and whose
9 primary business deals with petroleum products or who is covered by the
10 provisions of chapter 323, if such person, firm or corporation is paying fees under
11 the provisions of the federal hazardous materials transportation registration and
12 fee assessment program, shall deduct such federal fees from those fees owed to
13 the state under the provisions of this subsection. If the federal fees exceed or are
14 equal to what would otherwise be owed under this subsection, such employer
15 shall not be liable for state fees under this subsection. In relation to petroleum
16 products "primary business" shall mean that the person, firm or corporation shall
17 earn more than fifty percent of hazardous chemical revenues from the sale,
18 delivery or transport of petroleum products. For the purpose of calculating fees,
19 all grades of gasoline are considered to be one product, all grades of heating oils,

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

20 diesel fuels, kerosenes, naphthas, aviation turbine fuel, and all other heavy
21 distillate products except for grades of gasoline, are considered to be one product,
22 and all varieties of motor lubricating oil are considered to be one product. For
23 the purposes of this section "facility" shall mean all buildings, equipment,
24 structures and other stationary items that are located on a single site or on
25 contiguous or adjacent sites and which are owned or operated by the same person.
26 If more than three hazardous substances or mixtures are reported on the Tier II
27 form, the employer shall submit an additional twenty-dollar fee for each
28 hazardous substance or mixture. Fees collected under this subdivision shall be
29 for each hazardous chemical on hand at any one time in excess of ten thousand
30 pounds or for extremely hazardous substances on hand at any one time in excess
31 of five hundred pounds or the threshold planning quantity, whichever is less, or
32 for explosives or blasting agents on hand at any one time in excess of one
33 hundred pounds. However, no employer shall pay more than ten thousand dollars
34 per year in fees. [Except] Moneys acquired through litigation **and any**
35 **administrative fees paid pursuant to subsection 3 of this section** shall
36 not [apply to] **be applied toward** this cap;

37 (2) Employers engaged in transporting hazardous materials by pipeline
38 except local gas distribution companies regulated by the Missouri public service
39 commission shall pay to the commission a fee of two hundred fifty dollars for each
40 county in which they operate;

41 (3) Payment of fees is due each year by March first. A late fee of ten
42 percent of the total owed, plus one percent per month of the total, may be
43 assessed by the commission;

44 (4) If, on March first of each year, fees collected under this section and
45 natural resources damages made available pursuant to section 640.235 exceed one
46 million dollars, any excess over one million dollars shall be proportionately
47 credited to fees payable in the succeeding year by each employer who was
48 required to pay a fee and who did pay a fee in the year in which the excess
49 occurred. The limit of one million dollars contained herein shall be reviewed by
50 the commission concurrent with the review of fees as required in subsection 1 of
51 this section.

52 3. **Beginning January 1, 2013, any employer filing its Tier II form**
53 **pursuant to subsection 1 of section 292.605 may request that the**
54 **commission distribute that employer's Tier II report to the local**
55 **emergency planning committees and fire departments listed in its Tier**

56 **II report. Any employer opting to have the commission distribute its**
57 **Tier II report shall pay an additional fee of ten dollars for each facility**
58 **listed in the report at the time of filing to recoup the commission's**
59 **distribution costs. Fees shall be deposited in the chemical emergency**
60 **preparedness fund established under section 292.607. An employer who**
61 **pays the additional fee and whose Tier II report includes all local**
62 **emergency planning committees and fire departments required to be**
63 **notified under subsection 1 of section 292.605 shall satisfy the reporting**
64 **requirements of subsection 1 of section 292.605. The commission shall**
65 **develop a mechanism for an employer to exercise its option to have the**
66 **commission distribute its Tier II report.**

67 4. Local emergency planning committees receiving funds under section
68 292.604 shall coordinate with the commission and the department in chemical
69 emergency planning, training, preparedness, and response activities. Local
70 emergency planning committees receiving funds under this section, section
71 260.394, sections 292.602, 292.604, 292.605, 292.615 and section 640.235 shall
72 provide to the commission an annual report of expenditures and activities.

73 [4.] 5. Fees collected by the department and all funds provided to local
74 emergency planning committees shall be used for chemical emergency
75 preparedness purposes as outlined in sections 292.600 to 292.625 and the federal
76 act, including contingency planning for chemical releases; exercising, evaluating,
77 and distributing plans, providing training related to chemical emergency
78 preparedness and prevention of chemical accidents; identifying facilities required
79 to report; processing the information submitted by facilities and making it
80 available to the public; receiving and handling emergency notifications of
81 chemical releases; operating a local emergency planning committee; and providing
82 public notice of chemical preparedness activities. Local emergency planning
83 committees receiving funds under this section may combine such funds with other
84 local emergency planning committees to further the purposes of sections 292.600
85 to 292.625, or the federal act.

86 [5.] 6. The commission shall establish criteria and guidance on how funds
87 received by local emergency planning committees may be used.

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