

SECOND REGULAR SESSION

SENATE BILL NO. 642

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR ROMINE.

Pre-filed December 19, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

4971S.02I

AN ACT

To repeal section 444.772, RSMo, and to enact in lieu thereof one new section relating to surface mining.

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

Section A. Section 444.772, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 444.772, to read as follows:

444.772. 1. Any operator desiring to engage in surface mining shall make
2 written application to the director for a permit.

3 2. Application for permit shall be made on a form prescribed by the
4 commission and shall include:

5 (1) The name of all persons with any interest in the land to be mined;

6 (2) The source of the applicant's legal right to mine the land affected by
7 the permit;

8 (3) The permanent and temporary post office address of the applicant;

9 (4) Whether the applicant or any person associated with the applicant
10 holds or has held any other permits pursuant to sections 444.500 to 444.790, and
11 an identification of such permits;

12 (5) The written consent of the applicant and any other persons necessary
13 to grant access to the commission or the director to the area of land affected
14 under application from the date of application until the expiration of any permit
15 granted under the application and thereafter for such time as is necessary to
16 assure compliance with all provisions of sections 444.500 to 444.790 or any rule
17 or regulation promulgated pursuant to them. Permit applications submitted by
18 operators who mine an annual tonnage of less than ten thousand tons shall be
19 required to include written consent from the operator to grant access to the
20 commission or the director to the area of land affected;

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

21 (6) A description of the tract or tracts of land and the estimated number
22 of acres thereof to be affected by the surface mining of the applicant for the next
23 succeeding twelve months; and

24 (7) Such other information that the commission may require as such
25 information applies to land reclamation.

26 3. The application for a permit shall be accompanied by a map in a scale
27 and form specified by the commission by regulation.

28 4. The application shall be accompanied by a bond, security or certificate
29 meeting the requirements of section 444.778, a geologic resources fee authorized
30 under section 256.700, and a permit fee approved by the commission not to exceed
31 one thousand dollars. The commission may also require a fee for each site listed
32 on a permit not to exceed four hundred dollars for each site. If mining operations
33 are not conducted at a site for six months or more during any year, the fee for
34 such site for that year shall be reduced by fifty percent. The commission may
35 also require a fee for each acre bonded by the operator pursuant to section
36 444.778 not to exceed twenty dollars per acre. If such fee is assessed, the
37 per-acre fee on all acres bonded by a single operator that exceed a total of two
38 hundred acres shall be reduced by fifty percent. In no case shall the total fee for
39 any permit be more than three thousand dollars. Permit and renewal fees shall
40 be established by rule, except for the initial fees as set forth in this subsection,
41 and shall be set at levels that recover the cost of administering and enforcing
42 sections 444.760 to 444.790, making allowances for grants and other sources of
43 funds. The director shall submit a report to the commission and the public each
44 year that describes the number of employees and the activities performed the
45 previous calendar year to administer sections 444.760 to 444.790. For any
46 operator of a gravel mining operation where the annual tonnage of gravel mined
47 by such operator is less than five thousand tons, the total cost of submitting an
48 application shall be three hundred dollars. The issued permit shall be valid from
49 the date of its issuance until the date specified in the mine plan unless sooner
50 revoked or suspended as provided in sections 444.760 to 444.790. Beginning
51 August 28, 2007, the fees shall be set at a permit fee of eight hundred dollars, a
52 site fee of four hundred dollars, and an acre fee of ten dollars, with a maximum
53 fee of three thousand dollars. Fees may be raised as allowed in this subsection
54 after a regulation change that demonstrates the need for increased fees.

55 5. An operator desiring to have his or her permit amended to cover
56 additional land may file an amended application with the commission. Upon

57 receipt of the amended application, and such additional fee and bond as may be
58 required pursuant to the provisions of sections 444.760 to 444.790, the director
59 shall, if the applicant complies with all applicable regulatory requirements, issue
60 an amendment to the original permit covering the additional land described in
61 the amended application.

62 6. An operation may withdraw any land covered by a permit, excepting
63 affected land, by notifying the commission thereof, in which case the penalty of
64 the bond or security filed by the operator pursuant to the provisions of sections
65 444.760 to 444.790 shall be reduced proportionately.

66 7. Where mining or reclamation operations on acreage for which a permit
67 has been issued have not been completed, the permit shall be renewed. The
68 operator shall submit a permit renewal form furnished by the director for an
69 additional permit year and pay a fee equal to an application fee calculated
70 pursuant to subsection 4 of this section, but in no case shall the renewal fee for
71 any operator be more than three thousand dollars. For any operator involved in
72 any gravel mining operation where the annual tonnage of gravel mined by such
73 operator is less than five thousand tons, the permit as to such acreage shall be
74 renewed by applying on a permit renewal form furnished by the director for an
75 additional permit year and payment of a fee of three hundred dollars. Upon
76 receipt of the completed permit renewal form and fee from the operator, the
77 director shall approve the renewal. With approval of the director and operator,
78 the permit renewal may be extended for a portion of an additional year with a
79 corresponding prorating of the renewal fee.

80 8. Where one operator succeeds another at any uncompleted operation,
81 either by sale, assignment, lease or otherwise, the commission may release the
82 first operator from all liability pursuant to sections 444.760 to 444.790 as to that
83 particular operation if both operators have been issued a permit and have
84 otherwise complied with the requirements of sections 444.760 to 444.790 and the
85 successor operator assumes as part of his or her obligation pursuant to sections
86 444.760 to 444.790 all liability for the reclamation of the area of land affected by
87 the former operator.

88 9. The application for a permit shall be accompanied by a plan of
89 reclamation that meets the requirements of sections 444.760 to 444.790 and the
90 rules and regulations promulgated pursuant thereto, and shall contain a verified
91 statement by the operator setting forth the proposed method of operation,
92 reclamation, and a conservation plan for the affected area including approximate

93 dates and time of completion, and stating that the operation will meet the
94 requirements of sections 444.760 to 444.790, and any rule or regulation
95 promulgated pursuant to them.

96 10. At the time that a permit application is deemed complete by the
97 director, the operator shall publish a notice of intent to operate a surface mine
98 in any newspaper qualified pursuant to section 493.050 to publish legal notices
99 in any county where the land is located. If the director does not respond to a
100 permit application within forty-five calendar days, the application shall be
101 deemed to be complete. Notice in the newspaper shall be posted once a week for
102 four consecutive weeks beginning no more than ten days after the application is
103 deemed complete. The operator shall also send notice of intent to operate a
104 surface mine by certified mail to the governing body of the counties or cities in
105 which the proposed area is located, and to the last known addresses of all record
106 landowners of contiguous real property [or], real property located adjacent to the
107 proposed mine plan area, **and to real property landowners within two**
108 **thousand six hundred and forty feet or one-half of one mile from the**
109 **proposed mine plan area.** The notices shall include the name and address of
110 the operator, a legal description consisting of county, section, township and range,
111 the number of acres involved, a statement that the operator plans to mine a
112 specified mineral during a specified time, and the address of the commission. The
113 notices shall also contain a statement that any person with a direct, personal
114 interest in one or more of the factors the commission may consider in issuing a
115 permit may request a public meeting, a public hearing or file written comments
116 to the director no later than fifteen days following the final public notice
117 publication date.

118 11. The commission may approve a permit application or permit
119 amendment whose operation or reclamation plan deviates from the requirements
120 of sections 444.760 to 444.790 if it can be demonstrated by the operator that the
121 conditions present at the surface mining location warrant an exception. The
122 criteria accepted for consideration when evaluating the merits of an exception or
123 variance to the requirements of sections 444.760 to 444.790 shall be established
124 by regulations.

125 12. Fees imposed pursuant to this section shall become effective August
126 28, 2007, and shall expire on December 31, 2018. No other provisions of this
127 section shall expire.