

SECOND REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
CONFERENCE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 664

97TH GENERAL ASSEMBLY  
2014

5127S.06T

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## AN ACT

To repeal sections 260.273, 643.055, and 644.145, RSMo, and to enact in lieu thereof five new sections relating to natural resources.

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

Section A. Sections 260.273, 643.055, and 644.145, RSMo, are repealed  
2 and five new sections enacted in lieu thereof, to be known as sections 260.273,  
3 643.055, 643.640, 644.058, and 644.145, to read as follows:

260.273. 1. Any person purchasing a new tire may present to the seller  
2 the used tire or remains of such used tire for which the new tire purchased is to  
3 replace.

4 2. A fee for each new tire sold at retail shall be imposed on any person  
5 engaging in the business of making retail sales of new tires within this  
6 state. The fee shall be charged by the retailer to the person who purchases a tire  
7 for use and not for resale. Such fee shall be imposed at the rate of fifty cents for  
8 each new tire sold. Such fee shall be added to the total cost to the purchaser at  
9 retail after all applicable sales taxes on the tires have been computed. The fee  
10 imposed, less six percent of fees collected, which shall be retained by the tire  
11 retailer as collection costs, shall be paid to the department of revenue in the form  
12 and manner required by the department of revenue and shall include the total  
13 number of new tires sold during the preceding month. The department of revenue  
14 shall promulgate rules and regulations necessary to administer the fee collection  
15 and enforcement. The terms "sold at retail" and "retail sales" do not include the

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

16 sale of new tires to a person solely for the purpose of resale, if the subsequent  
17 retail sale in this state is to the ultimate consumer and is subject to the fee.

18 3. The department of revenue shall administer, collect and enforce the fee  
19 authorized pursuant to this section pursuant to the same procedures used in the  
20 administration, collection and enforcement of the general state sales and use tax  
21 imposed pursuant to chapter 144 except as provided in this section. The proceeds  
22 of the new tire fee, less four percent of the proceeds, which shall be retained by  
23 the department of revenue as collection costs, shall be transferred by the  
24 department of revenue into an appropriate subaccount of the solid waste  
25 management fund, created pursuant to section 260.330.

26 4. Up to five percent of the revenue available may be allocated, upon  
27 appropriation, to the department of natural resources to be used cooperatively  
28 with the department of elementary and secondary education for the purposes of  
29 developing environmental educational materials, programs, and curriculum that  
30 assist in the department's implementation of sections 260.200 to 260.345.

31 5. Up to fifty percent of the moneys received pursuant to this section may,  
32 upon appropriation, be used to administer the programs imposed by this section.  
33 Up to forty-five percent of the moneys received under this section may, upon  
34 appropriation, be used for the grants authorized in subdivision (2) of subsection  
35 6 of this section. All remaining moneys shall be allocated, upon appropriation,  
36 for the projects authorized in section 260.276, except that any unencumbered  
37 moneys may be used for public health, environmental, and safety projects in  
38 response to environmental or public health emergencies and threats as  
39 determined by the director.

40 6. The department shall promulgate, by rule, a statewide plan for the use  
41 of moneys received pursuant to this section to accomplish the following:

42 (1) Removal of waste tires from illegal tire dumps;

43 (2) Providing grants to persons that will use products derived from waste  
44 tires, or used waste tires as a fuel or fuel supplement; and

45 (3) Resource recovery activities conducted by the department pursuant to  
46 section 260.276.

47 7. The fee imposed in subsection 2 of this section shall begin the first day  
48 of the month which falls at least thirty days but no more than sixty days  
49 immediately following August 28, 2005, and shall terminate January 1, [2015]  
50 **2020.**

643.055. 1. Other provisions of law notwithstanding, the Missouri air

2 conservation commission shall have the authority to promulgate rules and  
3 regulations, pursuant to chapter 536, to establish standards and guidelines to  
4 ensure that the state of Missouri is in compliance with the provisions of the  
5 federal Clean Air Act, as amended (42 U.S.C. Section 7401, et seq.). The  
6 standards and guidelines so established shall not be any stricter than those  
7 required under the provisions of the federal Clean Air Act, as amended; nor shall  
8 those standards and guidelines be enforced in any area of the state prior to the  
9 time required by the federal Clean Air Act, as amended. The restrictions of this  
10 section shall not apply to the parts of a state implementation plan developed by  
11 the commission to bring a nonattainment area into compliance and to maintain  
12 compliance when needed to have a United States Environmental Protection  
13 Agency approved state implementation plan. The determination of which parts  
14 of a state implementation plan are not subject to the restrictions of this section  
15 shall be based upon specific findings of fact by the air conservation commission  
16 as to the rules, regulations and criteria that are needed to have a United States  
17 Environmental Protection Agency approved plan.

18         2. The Missouri air conservation commission shall also have the authority  
19 to grant exceptions and variances from the rules set under subsection 1 of this  
20 section when the person applying for the exception or variance can show that  
21 compliance with such rules:

22             (1) Would cause economic hardship; or

23             (2) Is physically impossible; or

24             (3) Is more detrimental to the environment than the variance would be;

25 or

26             (4) Is impractical or of insignificant value under the existing conditions.

27         **3. The department shall not regulate the manufacture,**  
28 **performance, or use of residential wood burning heaters or appliances**  
29 **through a state implementation plan or otherwise, unless first**  
30 **specifically authorized to do so by the general assembly. No rule or**  
31 **regulation respecting the establishment or the enforcement of**  
32 **performance standards for residential wood burning heaters or**  
33 **appliances shall become effective unless and until first approved by the**  
34 **joint committee on administrative rules.**

35         **4. New rules or regulations shall not be applied to existing wood**  
36 **burning furnaces, stoves, fireplaces, or heaters that individuals are**  
37 **currently using as their source of heat for their homes or**

38 **businesses. All wood burning furnaces, stoves, fireplaces, and heaters**  
39 **existing on August 28, 2014 shall not be subject to any rules or**  
40 **regulations enacted after such date. No employee of the state or a state**  
41 **agency shall enforce any new rules or regulations against such existing**  
42 **wood burning furnaces, stoves, fireplaces, and heaters.**

643.640. 1. **The commission shall develop emission standards**  
2 **under 42 U.S.C. Section 7411(d) and 40 CFR 60.24 through a unit-by-unit**  
3 **analysis of each existing affected source of carbon dioxide within the**  
4 **state. As used in this section, “unit-by-unit analysis” means an analysis**  
5 **of each generation plant individually, regardless of the number of**  
6 **turbines at each plant site.**

7 **2. The commission shall consider in developing and**  
8 **implementing emission standards for each existing affected source of**  
9 **carbon dioxide, among other factors, the remaining useful life of the**  
10 **existing affected source to which such standard applies, consistent with**  
11 **42 U.S.C. Section 7411(d).**

12 **3. The commission shall consider, consistent with its statutory**  
13 **duties to achieve the prevention, abatement, and control of air**  
14 **pollution by all commercially available and economically feasible**  
15 **methods, the overall economic impact from any and all emission**  
16 **standards and compliance schedules developed and implemented under**  
17 **42 U.S.C. Section 7411(d).**

18 **4. The commission may develop, on a unit-by-unit basis for**  
19 **individual existing affected sources and emissions of carbon dioxide at**  
20 **these existing affected sources, consistent with 40 CFR 60.24(f),**  
21 **emission standards that are less stringent, but not more stringent, than**  
22 **applicable federal emission guidelines or longer compliance schedules**  
23 **than those required by federal regulations. This determination shall**  
24 **be based on:**

25 **(1) Unreasonable cost of control resulting from plant age,**  
26 **location, or basic process design;**

27 **(2) Physical impossibility of installing necessary control**  
28 **equipment; or**

29 **(3) Other factors specific to the existing affected source or class**  
30 **of existing affected sources that make application of a less stringent**  
31 **standard or final compliance time significantly more reasonable**  
32 **including, but not limited to, the absolute cost of applying the emission**

33 standard and compliance schedule to the existing affected source; the  
34 outstanding debt associated with the existing affected source; the  
35 economic impacts of closing the existing affected source, including  
36 expected job losses if the existing affected source is unable to comply  
37 with the performance standard; and the customer impacts of applying  
38 the emission standard and compliance schedule to the existing affected  
39 source, including any disproportionate electric rate impacts on low  
40 income populations.

41 5. As required by 40 CFR 60.26, the commission has legal  
42 authority to carry out any state implementation plan with emission  
43 standards and compliance schedules that are developed and  
44 implemented consistent with this chapter.

45 6. If any provision of this section or the application thereof to  
46 any person or circumstance is held invalid, such invalidity shall not  
47 affect other provisions or applications of this section that can be given  
48 effect without the invalid provision or application, and to this end the  
49 provisions of this section are declared to be severable.

644.058. Notwithstanding the provisions of section 644.026 to the  
2 contrary, in promulgating water quality standards, the commission  
3 shall only revise water quality standards upon the completion of an  
4 assessment by the department finding that there is an environmental  
5 need for such revision. As part of the implementation of any revised  
6 water quality standards modifications of twenty-five percent or more,  
7 the department shall conduct an evaluation which shall include the  
8 environmental and economic impacts of the revised water quality  
9 criteria on a subbasin basis. This evaluation shall be conducted at the  
10 eight-digit hydrologic unit code level. The department shall document  
11 these evaluations and use them in making individual site-specific  
12 permit decisions.

644.145. 1. When issuing permits under this chapter that incorporate a  
2 new requirement for discharges from publicly owned combined or separate  
3 sanitary or storm sewer systems or treatment works, or when enforcing provisions  
4 of this chapter or the Federal Water Pollution Control Act, 33 U.S.C. 1251, et  
5 seq., pertaining to any portion of a publicly owned combined or separate sanitary  
6 or storm sewer system or treatment works, the department of natural resources  
7 shall make a finding of affordability **on the costs to be incurred and the**  
8 **impact of any rate changes on ratepayers** upon which to base such permits

9 and decisions, to the extent allowable under this chapter and the Federal Water  
10 Pollution Control Act.

11 2. (1) The department of natural resources shall not be required under  
12 this section to make a finding of affordability when:

13 (a) Issuing collection system extension permits;

14 (b) Issuing National Pollution Discharge Elimination System operating  
15 permit renewals which include no new environmental requirements; or

16 (c) The permit applicant certifies that the applicable requirements are  
17 affordable to implement or otherwise waives the requirement for an affordability  
18 finding; however, at no time shall the department require that any applicant  
19 certify, as a condition to approving any permit, administrative or civil action, that  
20 a requirement, condition, or penalty is affordable.

21 (2) The exceptions provided under paragraph (c) of subdivision (1) of this  
22 subsection do not apply when the community being served has less than three  
23 thousand three hundred residents.

24 3. When used in this chapter and in standards, rules and regulations  
25 promulgated pursuant to this chapter, the following words and phrases mean:

26 (1) "Affordability", with respect to payment of a utility bill, a measure of  
27 whether an individual customer or household **with an income equal to the**  
28 **lower of the median household income for their community or the state**  
29 **of Missouri** can pay the bill without undue hardship or unreasonable sacrifice  
30 in the essential lifestyle or spending patterns of the individual or household,  
31 taking into consideration the criteria described in subsection 4 of this section;

32 (2) "Financial capability", the financial capability of a community to make  
33 investments necessary to make water quality-related improvements;

34 (3) "**Finding of affordability**", a department statement as to  
35 **whether an individual or a household receiving as income an amount**  
36 **equal to the lower of the median household income for the applicant**  
37 **community or the state of Missouri would be required to make**  
38 **unreasonable sacrifices in their essential lifestyle or spending patterns**  
39 **or undergo hardships in order to make the projected monthly payments**  
40 **for sewer services. The department shall make a statement that the**  
41 **proposed changes meet the definition of affordable, or fail to meet the**  
42 **definition of affordable, or are implemented as a federal mandate**  
43 **regardless of affordability.**

44 4. The department of natural resources shall adopt procedures by which

45 it will make affordability findings that evaluate the affordability of permit  
46 requirements and enforcement actions described in subsection 1 of this section,  
47 and may begin implementing such procedures prior to promulgating  
48 implementing regulations. The commission shall have the authority to  
49 promulgate rules to implement this section pursuant to chapters 536 and 644,  
50 and shall promulgate such rules as soon as practicable. Affordability findings  
51 shall be based upon reasonably verifiable data and shall include an assessment  
52 of affordability with respect to persons or entities affected. The department shall  
53 offer the permittee an opportunity to review a draft affordability finding, and the  
54 permittee may suggest changes and provide additional supporting information,  
55 subject to subsection 6 of this section. The finding shall be based upon the  
56 following criteria:

57 (1) A community's financial capability and ability to raise or secure  
58 necessary funding;

59 (2) Affordability of pollution control options for the individuals or  
60 households at or below the median household income level of the community;

61 (3) An evaluation of the overall costs and environmental benefits of the  
62 control technologies;

63 (4) **Inclusion of ongoing costs of operating and maintaining the**  
64 **existing wastewater collection and treatment system, including**  
65 **payments on outstanding debts for wastewater collection and treatment**  
66 **systems when calculating projected rates;**

67 (5) An inclusion of ways to reduce economic impacts on distressed  
68 populations in the community, including but not limited to low- and fixed-income  
69 populations. This requirement includes but is not limited to:

70 (a) Allowing adequate time in implementation schedules to mitigate  
71 potential adverse impacts on distressed populations resulting from the costs of  
72 the improvements and taking into consideration local community economic  
73 considerations; and

74 (b) Allowing for reasonable accommodations for regulated entities when  
75 inflexible standards and fines would impose a disproportionate financial hardship  
76 in light of the environmental benefits to be gained;

77 [(5)] (6) An assessment of other community investments **and operating**  
78 **costs** relating to environmental improvements **and public health protection;**

79 [(6)] (7) An assessment of factors set forth in the United States  
80 Environmental Protection Agency's guidance, including but not limited to the

81 "Combined Sewer Overflow Guidance for Financial Capability Assessment and  
82 Schedule Development" that may ease the cost burdens of implementing wet  
83 weather control plans, including but not limited to small system considerations,  
84 the attainability of water quality standards, and the development of wet weather  
85 standards; and

86 [(7)] (8) An assessment of any other relevant local community economic  
87 condition.

88 5. Prescriptive formulas and measures used in determining financial  
89 capability, affordability, and thresholds for expenditure, such as median  
90 household income, should not be considered to be the only indicator of a  
91 community's ability to implement control technology and shall be viewed in the  
92 context of other economic conditions rather than as a threshold to be achieved.

93 6. Reasonable time spent preparing draft affordability findings, allowing  
94 permittees to review draft affordability findings or draft permits, or revising draft  
95 affordability findings, shall be allowed in addition to the department's deadlines  
96 for making permitting decisions pursuant to section 644.051.

97 7. If the department of natural resources fails to make a finding of  
98 affordability where required by this section, then the resulting permit or decision  
99 shall be null, void and unenforceable.

100 8. The department of natural resources' findings under this section may  
101 be appealed to the commission pursuant to subsection 6 of section 644.051.

102 **9. The department shall file an annual report by the beginning**  
103 **of the fiscal year with the governor, the speaker of the house of**  
104 **representatives, the president pro tempore of the senate, and the chairs**  
105 **of the committees in both houses having primary jurisdiction over**  
106 **natural resource issues showing at least the following information on**  
107 **the findings of affordability completed in the previous calendar year:**

108 **(1) The total number of findings of affordability issued by the**  
109 **department, those categorized as affordable, those categorized as not**  
110 **meeting the definition of affordable, and those implemented as a**  
111 **federal mandate regardless of affordability;**

112 **(2) The average increase in sewer rates both in dollars and**  
113 **percentage for all findings found to be affordable;**

114 **(3) The average increase in sewer rates as a percentage of**  
115 **median house income in the communities for those findings determined**  
116 **to be affordable and a separate calculation of average increases in**



117 sewer rates for those found not to meet the definition of affordable;

118 (4) A list of all the permit holders receiving findings, and for  
119 each permittee the following data taken from the finding of  
120 affordability shall be listed:

121 (a) Current and projected monthly residential sewer rates in  
122 dollars;

123 (b) Projected monthly residential sewer rates as a percentage of  
124 median house income;

125 (c) Percentage of households at or below the state poverty rate.

Unofficial ✓

Bill

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