

SENATE SUBSTITUTE  
FOR  
SENATE COMMITTEE SUBSTITUTE  
FOR  
HOUSE COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1364

AN ACT

To repeal sections 292.606, 319.129, and 414.032, RSMo, and to enact in lieu thereof four new sections relating to petroleum products.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1           Section A. Sections 292.606, 319.129, and 414.032, RSMo,  
2 are repealed and four new sections enacted in lieu thereof, to be  
3 known as sections 292.606, 319.129, 319.140, and 414.032, to read  
4 as follows:

5           292.606. 1. Fees shall be collected for a period of six  
6 years from August 28, ~~[2012]~~ 2018.

7           2. (1) Any employer required to report under subsection 1  
8 of section 292.605, except local governments and family-owned  
9 farm operations, shall submit an annual fee to the commission of  
10 one hundred dollars along with the Tier II form. Owners or  
11 operators of petroleum retail facilities shall pay a fee of no  
12 more than fifty dollars for each such facility. Any person, firm  
13 or corporation selling, delivering or transporting petroleum or  
14 petroleum products and whose primary business deals with

1 petroleum products or who is covered by the provisions of chapter  
2 323, if such person, firm or corporation is paying fees under the  
3 provisions of the federal hazardous materials transportation  
4 registration and fee assessment program, shall deduct such  
5 federal fees from those fees owed to the state under the  
6 provisions of this subsection. If the federal fees exceed or are  
7 equal to what would otherwise be owed under this subsection, such  
8 employer shall not be liable for state fees under this  
9 subsection. In relation to petroleum products "primary business"  
10 shall mean that the person, firm or corporation shall earn more  
11 than fifty percent of hazardous chemical revenues from the sale,  
12 delivery or transport of petroleum products. For the purpose of  
13 calculating fees, all grades of gasoline are considered to be one  
14 product, all grades of heating oils, diesel fuels, kerosenes,  
15 naphthas, aviation turbine fuel, and all other heavy distillate  
16 products except for grades of gasoline are considered to be one  
17 product, and all varieties of motor lubricating oil are  
18 considered to be one product. For the purposes of this section  
19 "facility" shall mean all buildings, equipment, structures and  
20 other stationary items that are located on a single site or on  
21 contiguous or adjacent sites and which are owned or operated by  
22 the same person. If more than three hazardous substances or  
23 mixtures are reported on the Tier II form, the employer shall  
24 submit an additional twenty dollar fee for each hazardous  
25 substance or mixture. Fees collected under this subdivision  
26 shall be for each hazardous chemical on hand at any one time in  
27 excess of ten thousand pounds or for extremely hazardous  
28 substances on hand at any one time in excess of five hundred

1 pounds or the threshold planning quantity, whichever is less, or  
2 for explosives or blasting agents on hand at any one time in  
3 excess of one hundred pounds. However, no employer shall pay  
4 more than ten thousand dollars per year in fees. Moneys acquired  
5 through litigation and any administrative fees paid pursuant to  
6 subsection 3 of this section shall not be applied toward this  
7 cap.

8 (2) Employers engaged in transporting hazardous materials  
9 by pipeline except local gas distribution companies regulated by  
10 the Missouri public service commission shall pay to the  
11 commission a fee of two hundred fifty dollars for each county in  
12 which they operate.

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

16 (4) If, on March first of each year, fees collected under  
17 this section and natural resources damages made available  
18 pursuant to section 640.235 exceed one million dollars, any  
19 excess over one million dollars shall be proportionately credited  
20 to fees payable in the succeeding year by each employer who was  
21 required to pay a fee and who did pay a fee in the year in which  
22 the excess occurred. The limit of one million dollars contained  
23 herein shall be reviewed by the commission concurrent with the  
24 review of fees as required in subsection 1 of this section.

25 3. Beginning January 1, 2013, any employer filing its Tier  
26 II form pursuant to subsection 1 of section 292.605 may request  
27 that the commission distribute that employer's Tier II report to  
28 the local emergency planning committees and fire departments

1 listed in its Tier II report. Any employer opting to have the  
2 commission distribute its Tier II report shall pay an additional  
3 fee of ten dollars for each facility listed in the report at the  
4 time of filing to recoup the commission's distribution costs.  
5 Fees shall be deposited in the chemical emergency preparedness  
6 fund established under section 292.607. An employer who pays the  
7 additional fee and whose Tier II report includes all local  
8 emergency planning committees and fire departments required to be  
9 notified under subsection 1 of section 292.605 shall satisfy the  
10 reporting requirements of subsection 1 of section 292.605. The  
11 commission shall develop a mechanism for an employer to exercise  
12 its option to have the commission distribute its Tier II report.

13 4. Local emergency planning committees receiving funds  
14 under section 292.604 shall coordinate with the commission and  
15 the department in chemical emergency planning, training,  
16 preparedness, and response activities. Local emergency planning  
17 committees receiving funds under this section, section 260.394,  
18 sections 292.602, 292.604, 292.605, 292.615 and section 640.235  
19 shall provide to the commission an annual report of expenditures  
20 and activities.

21 5. Fees collected by the department and all funds provided  
22 to local emergency planning committees shall be used for chemical  
23 emergency preparedness purposes as outlined in sections 292.600  
24 to 292.625 and the federal act, including contingency planning  
25 for chemical releases; exercising, evaluating, and distributing  
26 plans, providing training related to chemical emergency  
27 preparedness and prevention of chemical accidents; identifying  
28 facilities required to report; processing the information

1 submitted by facilities and making it available to the public;  
2 receiving and handling emergency notifications of chemical  
3 releases; operating a local emergency planning committee; and  
4 providing public notice of chemical preparedness activities.  
5 Local emergency planning committees receiving funds under this  
6 section may combine such funds with other local emergency  
7 planning committees to further the purposes of sections 292.600  
8 to 292.625, or the federal act.

9 6. The commission shall establish criteria and guidance on  
10 how funds received by local emergency planning committees may be  
11 used.

12 319.129. 1. There is hereby created a special trust fund  
13 to be known as the "Petroleum Storage Tank Insurance Fund" within  
14 the state treasury which shall be the successor to the  
15 underground storage tank insurance fund. Moneys in such special  
16 trust fund shall not be deemed to be state funds.  
17 Notwithstanding the provisions of section 33.080 to the contrary,  
18 moneys in the fund shall not be transferred to general revenue at  
19 the end of each biennium.

20 2. The owner or operator of any underground storage tank,  
21 including the state of Missouri and its political subdivisions  
22 and public transportation systems, in service on August 28, 1989,  
23 shall submit to the department a fee of one hundred dollars per  
24 tank on or before December 31, 1989. The owner or operator of  
25 any underground storage tank who seeks to participate in the  
26 petroleum storage tank insurance fund, including the state of  
27 Missouri and its political subdivisions and public transportation  
28 systems, and whose underground storage tank is brought into

1 service after August 28, 1998, shall transmit one hundred dollars  
2 per tank to the board with his or her initial application. Such  
3 amount shall be a one-time payment, and shall be in addition to  
4 the payment required by section 319.133. The owner or operator  
5 of any aboveground storage tank regulated by this chapter,  
6 including the state of Missouri and its political subdivisions  
7 and public transportation systems, who seeks to participate in  
8 the petroleum storage tank insurance fund, shall transmit one  
9 hundred dollars per tank to the board with his or her initial  
10 application. Such amount shall be a one-time payment and shall  
11 be in addition to the payment required by section 319.133.  
12 Moneys received pursuant to this section shall be transmitted to  
13 the director of revenue for deposit in the petroleum storage tank  
14 insurance fund.

15 3. The state treasurer may deposit moneys in the fund in  
16 any of the qualified depositories of the state. All such  
17 deposits shall be secured in a manner and upon the terms as are  
18 provided by law relative to state deposits. Interest earned  
19 shall be credited to the petroleum storage tank insurance fund.

20 4. The general administration of the fund and the  
21 responsibility for the proper operation of the fund, including  
22 all decisions relating to payments from the fund, are hereby  
23 vested in a board of trustees. The board of trustees shall  
24 consist of the commissioner of administration or the  
25 commissioner's designee, the director of the department of  
26 natural resources or the director's designee, the director of the  
27 department of agriculture or the director's designee, and eight  
28 citizens appointed by the governor with the advice and consent of

1 the senate. Three of the appointed members shall be owners or  
2 operators of retail petroleum storage tanks, including one tank  
3 owner or operator of greater than one hundred tanks; one tank  
4 owner or operator of less than one hundred tanks; and one  
5 aboveground storage tank owner or operator. One appointed  
6 trustee shall represent a financial lending institution, and one  
7 appointed trustee shall represent the insurance underwriting  
8 industry. One appointed trustee shall represent industrial or  
9 commercial users of petroleum. The two remaining appointed  
10 citizens shall have no petroleum-related business interest, and  
11 shall represent the nonregulated public at large. The members  
12 appointed by the governor shall serve four-year terms except that  
13 the governor shall designate two of the original appointees to be  
14 appointed for one year, two to be appointed for two years, two to  
15 be appointed for three years and two to be appointed for four  
16 years. Any vacancies occurring on the board shall be filled in  
17 the same manner as provided in this section.

18 5. The board shall meet in Jefferson City, Missouri, within  
19 thirty days following August 28, 1996. Thereafter, the board  
20 shall meet upon the written call of the chairman of the board or  
21 by the agreement of any six members of the board. Notice of each  
22 meeting shall be delivered to all other trustees in person or by  
23 registered mail not less than six days prior to the date fixed  
24 for the meeting. The board may meet at any time by unanimous  
25 mutual consent. There shall be at least one meeting in each  
26 quarter.

27 6. Six trustees shall constitute a quorum for the  
28 transaction of business, and any official action of the board

1 shall be based on a majority vote of the trustees present.

2 7. The trustees shall serve without compensation but shall  
3 receive from the fund their actual and necessary expenses  
4 incurred in the performance of their duties for the board.

5 8. The board of trustees shall be a type III agency and  
6 shall appoint an executive director and other employees as  
7 needed, who shall be state employees and be eligible for all  
8 corresponding benefits. The executive director shall have charge  
9 of the offices, operations, records, and other employees of the  
10 board, subject to the direction of the board. Employees of the  
11 board shall receive such salaries and necessary expenses as shall  
12 be fixed by the board.

13 9. Staff resources for the Missouri petroleum storage tank  
14 insurance fund may be provided by the department of natural  
15 resources or another state agency as otherwise specifically  
16 determined by the board. The fund shall compensate the  
17 department of natural resources or other state agency for all  
18 costs of providing staff required by this subsection. Such  
19 compensation shall be made pursuant to contracts negotiated  
20 between the board and the department of natural resources or  
21 other state agency.

22 10. In order to carry out the fiduciary management of the  
23 fund, the board may select and employ, or may contract with,  
24 persons experienced in insurance underwriting, accounting, the  
25 servicing of claims and rate making, and legal counsel to defend  
26 third-party claims, who shall serve at the board's pleasure.  
27 Invoices for such services shall be presented to the board in  
28 sufficient detail to allow a thorough review of the costs of such



1 services.

2 11. At the first meeting of the board, the board shall  
3 elect one of its members as chairman. The chairman shall preside  
4 over meetings of the board and perform such other duties as shall  
5 be required by action of the board.

6 12. The board shall elect one of its members as vice  
7 chairman, and the vice chairman shall perform the duties of the  
8 chairman in the absence of the latter or upon the chairman's  
9 inability or refusal to act.

10 13. The board shall determine and prescribe all rules and  
11 regulations as they relate to fiduciary management of the fund,  
12 pursuant to the purposes of sections 319.100 to 319.137. In no  
13 case shall the board have oversight regarding environmental  
14 cleanup standards for petroleum storage tanks.

15 14. No trustee or staff member of the fund shall receive  
16 any gain or profit from any moneys or transactions of the fund.  
17 This shall not preclude any eligible trustee from making a claim  
18 or receiving benefits from the petroleum storage tank insurance  
19 fund as provided by sections 319.100 to 319.137.

20 15. The board may reinsure all or a portion of the fund's  
21 liability. Any insurer who sells environmental liability  
22 insurance in this state may, at the option of the board, reinsure  
23 some portion of the fund's liability.

24 16. The petroleum storage tank insurance fund shall expire  
25 on December 31, [2020] 2025, unless extended by action of the  
26 general assembly. After December 31, [2020] 2025, the board of  
27 trustees may continue to function for the sole purpose of  
28 completing payment of claims made prior to December 31, [2020]

1 2025.

2 17. The board shall annually commission an independent  
3 financial audit of the petroleum storage tank insurance fund.  
4 The board shall biennially commission an actuarial analysis of  
5 the petroleum storage tank insurance fund. The results of the  
6 financial audit and the actuarial analysis shall be made  
7 available to the public. The board may contract with third  
8 parties to carry out the requirements of this subsection.

9 319.140. 1. There is established a task force of the  
10 general assembly to be known as the "Task Force on the Petroleum  
11 Storage Tank Insurance Fund". Such task force shall be composed  
12 of eight members. Three members shall be from the house of  
13 representatives with two appointed by the speaker of the house of  
14 representatives and one appointed by the minority floor leader of  
15 the house of representatives. Three members shall be from the  
16 senate with two appointed by the president pro tempore of the  
17 senate and one appointed by the minority floor leader of the  
18 senate. Two members shall be industry stakeholders with one  
19 appointed by the speaker of the house of representatives and one  
20 appointed by the president pro tempore of the senate. No more  
21 than two members from either the house of representatives or the  
22 senate shall be from the same political party. A majority of the  
23 task force shall constitute a quorum.

24 2. The task force shall conduct research and compile a  
25 report for delivery to the general assembly by December 31, 2018,  
26 on the following:

27 (1) The efficacy of the petroleum storage tank insurance  
28 fund and program;

1       (2) The sustainability of the petroleum storage tank  
2 insurance fund and program;

3       (3) The administration of the petroleum storage tank  
4 insurance fund and program;

5       (4) The availability of private insurance for above and  
6 below ground petroleum storage tanks, and the necessity of  
7 insurance subsidies created through the petroleum storage tank  
8 insurance program;

9       (5) Compliance with federal programs, regulations, and  
10 advisory reports; and

11       (6) The comparability of the petroleum storage tank  
12 insurance program to other states' programs and states without  
13 such programs.

14       3. The task force shall meet within thirty days after its  
15 creation and organize by selecting a chairperson and vice  
16 chairperson, one of whom shall be a member of the senate and the  
17 other a member of the house of representatives. Thereafter, the  
18 task force may meet as often as necessary in order to accomplish  
19 the tasks assigned to it.

20       4. The task force shall be staffed by legislative staff as  
21 necessary to assist the task force in the performance of its  
22 duties.

23       5. The members of the task force shall serve without  
24 compensation but shall be entitled to reimbursement for actual  
25 and necessary expenses incurred in the performance of their  
26 official duties.

27       6. This section shall expire on December 31, 2018.

28       414.032. 1. All kerosene, diesel fuel, heating oil,

1 aviation turbine fuel, gasoline, gasoline-alcohol blends and  
2 other motor fuels shall meet the requirements in the annual book  
3 of ASTM standards and supplements thereto. The director may  
4 promulgate rules and regulations on the labeling, standards for,  
5 and identity of motor fuels and heating oils.

6 2. The director may inspect gasoline, gasoline-alcohol  
7 blends or other motor fuels to insure that these fuels conform to  
8 advertised grade and octane. In no event shall the penalty for a  
9 first violation of this section exceed a written reprimand.

10 3. The director may waive specific requirements in this  
11 section and in regulations promulgated according to this section,  
12 or may establish temporary alternative requirements for fuels as  
13 determined to be necessary in the event of an extreme and unusual  
14 fuel supply circumstance as a result of a petroleum pipeline or  
15 petroleum refinery equipment failure, emergency, or a natural  
16 disaster as determined by the director for a specified period of  
17 time. If any action is taken by the director under this section,  
18 the director shall:

19 (1) Advise the U.S. Environmental Protection Agency of such  
20 action;

21 (2) Review the action after thirty days; and

22 (3) Notify industry stakeholders of such action.

23 4. Any waiver issued or action taken under subsection 3 of  
24 this section shall be as limited in scope and applicability as  
25 necessary, and shall apply equally and uniformly to all persons  
26 and companies in the impacted petroleum motor fuel supply and  
27 distribution system, including but not limited to petroleum  
28 producers, terminals, distributors, and retailers.