

FIRST REGULAR SESSION

[CORRECTED]

[PERFECTED]

SENATE SUBSTITUTE FOR

SENATE BILL NO. 391

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BERNSKOETTER.

Offered April 16, 2019.

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Taken up for Perfection April 29, 2019. Bill declared Perfected and Ordered Printed, as amended.

ADRIANE D. CROUSE, Secretary.

2073S.02P

AN ACT

To repeal sections 192.300, 640.715, and 640.745, RSMo, and to enact in lieu thereof five new sections relating to agricultural operations, with an existing penalty provision.

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

Section A. Sections 192.300, 640.715, and 640.745, RSMo, are repealed
2 and five new sections enacted in lieu thereof, to be known as sections 21.900,
3 192.300, 640.715, 640.745, and 1, to read as follows:

**21.900. 1. There is established a joint committee of the general
2 assembly to be known as the "Joint Committee on Agriculture" to be
3 comprised of five members of the senate, five members of the house of
4 representatives, the director of the department of agriculture or his or
5 her designee, and the director of the department of natural resources
6 or his or her designee. The senate members shall be appointed by the
7 president pro tempore and minority floor leader of the senate and the
8 house members shall be appointed by the speaker and minority floor
9 leader of the house of representatives. No party shall be represented
10 by more than three members from the senate nor more than three
11 members from the house. A majority of the members of the committee
12 shall constitute a quorum.**

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

13 **2. The joint committee on agriculture shall meet within thirty**
14 **days after its creation and organize by selecting two co-chairs, one of**
15 **whom shall be a member of the senate and the other a member of the**
16 **house of representatives.**

17 **3. The committee shall meet at the call of either co-chair or upon**
18 **request of any member and shall hear public testimony on the items set**
19 **forth in subsection 6 of this section.**

20 **4. The committee shall be staffed by legislative personnel as is**
21 **deemed necessary to assist the committee in the performance of its**
22 **duties.**

23 **5. The members of the committee shall serve without**
24 **compensation, but any actual and necessary expenses incurred in the**
25 **performance of the committee's official duties by the joint committee,**
26 **its members, and any staff assigned to the committee shall be paid from**
27 **the joint contingent fund, except for members of the committee who are**
28 **not members of the general assembly.**

29 **6. The committee shall conduct research on the following:**

30 **(1) The economic impact of Missouri's agricultural industry in**
31 **the state, including its contribution to state and local tax revenues;**

32 **(2) The industry's ongoing efforts to improve environmental**
33 **stewardship while improving the economic sustainability of Missouri**
34 **agriculture;**

35 **(3) The creation of incentives to encourage members of the**
36 **agricultural industry to adopt best practices to scientifically address**
37 **Missouri's carbon footprint; and**

38 **(4) Missouri residents' views on agricultural issues via public**
39 **testimony.**

40 **7. The committee shall compile a full report of its activities for**
41 **submission to the general assembly. The first report shall be submitted**
42 **not later than January 15, 2021, and not later than the fifteenth of**
43 **January of each year in which the general assembly convenes in**
44 **regular session and shall include any recommendations which the joint**
45 **committee may have for legislative action as well as any**
46 **recommendations for administrative or procedural changes in the**
47 **internal management or organization of state government agencies and**
48 **departments. Copies of the report containing such recommendations**
49 **shall be sent to the appropriate directors of state departments and**

50 **agencies included in the report.**

51 **8. The department of agriculture and the department of natural**
52 **resources shall cooperate with and assist the committee in the**
53 **performance of its duties and shall make available all public records**
54 **and information requested.**

55 **9. The committee shall dissolve on January 15, 2024.**

192.300. 1. The county commissions and the county health center boards
2 of the several counties may make and promulgate orders, ordinances, rules or
3 regulations, respectively as will tend to enhance the public health and prevent
4 the entrance of infectious, contagious, communicable or dangerous diseases into
5 such county, but any orders, ordinances, rules or regulations shall not:

6 **(1) Be in conflict with any rules or regulations authorized and made by**
7 **the department of health and senior services in accordance with this chapter or**
8 **by the department of social services under chapter 198; or**

9 **(2) Impose standards or requirements on an agricultural**
10 **operation and its appurtenances, as such term is defined in section**
11 **537.295, that are inconsistent with or more stringent than any provision**
12 **of this chapter or chapters 260, 640, 643, and 644, or any rule or**
13 **regulation promulgated under such chapters.**

14 **2.** The county commissions and the county health center boards of the
15 several counties may establish reasonable fees to pay for any costs incurred in
16 carrying out such orders, ordinances, rules or regulations, however, the
17 establishment of such fees shall not deny personal health services to those
18 individuals who are unable to pay such fees or impede the prevention or control
19 of communicable disease. Fees generated shall be deposited in the county
20 treasury. All fees generated under the provisions of this section shall be used to
21 support the public health activities for which they were generated.

22 **3.** After the promulgation and adoption of such orders, ordinances, rules
23 or regulations by such county commission or county health board, such
24 commission or county health board shall make and enter an order or record
25 declaring such orders, ordinances, rules or regulations to be printed and available
26 for distribution to the public in the office of the county clerk, and shall require
27 a copy of such order to be published in some newspaper in the county in three
28 successive weeks, not later than thirty days after the entry of such order,
29 ordinance, rule or regulation.

30 **4.** Any person, firm, corporation or association which violates any of the

31 orders or ordinances adopted, promulgated and published by such county
32 commission is guilty of a misdemeanor and shall be prosecuted, tried and fined
33 as otherwise provided by law. The county commission or county health board of
34 any such county has full power and authority to initiate the prosecution of any
35 action under this section.

640.715. 1. Prior to filing an application to acquire an operating permit
2 for a new or expanded facility from the department, the owner or operator of any
3 class IA, class IB, or class IC concentrated animal feeding operation shall provide
4 the following information to the department, to the county governing body and to
5 all adjoining property owners, **via certified mail**, of property located within
6 [one and one-half] **three** times the buffer distance as specified in subsection 2 of
7 section 640.710 for the size of the proposed facility:

- 8 (1) The number of animals anticipated at such facility;
- 9 (2) The waste handling plan and general layout of the facility;
- 10 (3) The location and number of acres of such facility;
- 11 (4) Name, address, telephone number and registered agent for further
12 information as it relates to subdivisions (1) to (3) of this subsection;
- 13 (5) Notice that the department will accept written comments from the
14 public for a period of thirty days; and
- 15 (6) The address of the regional or state office of the department.

16 The department shall require proof of such notification upon accepting an
17 application for an operating permit for a new or expanded facility. The
18 department shall accept written comments from the public for thirty days after
19 receipt of application for such permit.

20 2. The department shall not issue an operating permit to a facility
21 described in subsection 1 of this section to engage in any activity regulated by the
22 department unless the applicant is in compliance with sections 640.700 to
23 640.755.

24 3. The department shall issue an operating permit or respond with a
25 letter of comment to the owner or operator of such facility within forty-five days
26 of receiving a completed permit application and verification of compliance with
27 subsection 1 of this section. **No construction on a new or expanded facility**
28 **shall commence until the department has issued an operating permit**
29 **to the owner or operator of such facility.**

640.745. 1. The owner or operator of each class IA concentrated animal
2 feeding operation utilizing flush systems shall remit to the department of natural

3 resources a fee of ten cents per animal unit permitted to be deposited in the
4 fund. The fee is due and payable to the department on the first anniversary of
5 issuance of each owner or operator permit to operate such a facility and for nine
6 years thereafter on the same date. The department of natural resources shall
7 provide forms which such owner or operator shall use to file and pay this fee.

8 2. The fund shall be administered by the department for the purpose of
9 carrying out the provisions of sections 640.700 to 640.755, relating to closure of
10 class IA, class IB, class IC and class II concentrated animal feeding operation
11 wastewater lagoons.

12 3. The fund administrators may only expend moneys for animal waste
13 lagoon closure activities on real property which:

14 (1) Has been placed in the control of the state, a county, or municipal
15 government, or an agency thereof, through donation, purchase, tax delinquency,
16 foreclosure, default or settlement, including conveyance by deed in lieu of
17 foreclosure, and pose a threat to human health, the environment, or a threat to
18 groundwater; and

19 (2) The state, county, or municipal government, or an agency thereof, has
20 made reasonable and prudent efforts to **remediate the property or** sell said
21 property to a qualifying purchaser.

22 4. The fund administrators shall expend no more than one hundred
23 thousand dollars per lagoon for animal waste lagoon closure activities. The fund
24 administrators shall only expend those moneys necessary to achieve a minimum
25 level of closure and still protect human health and the environment. Closure
26 activities shall include lagoon dewatering and removal of animal waste sludge,
27 if any, both of which shall be land applied at a nutrient management application
28 rate based on the most limiting nutrient as determined by Missouri clean water
29 commission regulation. After dewatering, lagoons which are located in a drainage
30 basin and are capable of meeting all applicable pond requirements of the Natural
31 Resources Conservation Service (NRCS) with minimal additional expense should
32 be maintained as a pond. Otherwise, the lagoon berms should be breached and
33 graded in such a manner to reasonably conform to the surrounding land contours.

**Section 1. Notwithstanding any provision of law to the contrary,
2 all liquified manure from a concentrated animal feeding operation that
3 is purchased or received by a third party and is surface-applied shall
4 maintain an application setback of at least fifty feet from a property
5 boundary, three hundred feet from any public drinking water lake,**

6 three hundred feet from any public drinking water well, three hundred
7 feet from any public drinking water intake structure, one hundred feet
8 from any perennial and intermittent streams without vegetation
9 abutting such streams, and thirty five feet from any perennial and
10 intermittent streams with vegetation abutting such streams. If the
11 department of natural resources promulgates rules providing for a
12 distance requirement for the application of liquified manure from a
13 concentrated animal feeding operation that is stricter than the
14 provisions of this section, such rules shall apply to the spread of all
15 liquified manure subject to the provisions of this section. Any violation
16 of this section shall be subject to the penalties set forth in section
17 644.076.

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Bill

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