

SECOND REGULAR SESSION

SENATE BILL NO. 542

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GOODE.

Pre-filed December 1, 1997, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S2085.011

AN ACT

To repeal sections 260.380 and 260.479, RSMo 1994, relating to fees on hazardous wastes, and to enact in lieu thereof three new sections relating to the same subject, with an effective date for certain sections.

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

Section A. Sections 260.380 and 260.479, RSMo 1994, are repealed and three new sections enacted in lieu thereof, to be known as sections 260.380, 260.477 and 260.479, to read as follows:

260.380. 1. [After six months from the effective date of the standards, rules and regulations adopted by the commission pursuant to section 260.370,] **On and after the effective date of this section**, hazardous waste generators shall:

(1) Promptly file and maintain with the department, on registration forms it provides for this purpose, information on hazardous waste generation and management as specified by rules and regulations, and the hazardous waste generator may provide such information in a single registration form for all hazardous waste generation sites owned or operated by the hazardous waste generator or may register each hazardous waste generation site separately for the purposes of subdivision (10) of this subsection;

(2) Containerize and label all hazardous wastes as specified by standards, rules and regulations;

(3) Segregate all hazardous wastes from all nonhazardous wastes and from noncompatible wastes, materials and other potential hazards as specified by standards, rules and regulations;

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

(4) Provide safe storage and handling, including spill protection, as specified by standards, rules and regulations, for all hazardous wastes from the time of their generation to the time of their removal from the site of generation;

(5) Unless provided otherwise in the rules and regulations, utilize only a hazardous waste transporter holding a license under sections 260.350 to 260.430 for the removal of all hazardous wastes from the premises where they were generated;

(6) Unless provided otherwise in the rules and regulations, provide a separate manifest to the transporter for each load of hazardous waste transported from the premises where it was generated. The generator shall specify the destination of such load on the manifest. The manner in which the manifest shall be completed, signed and filed with the department shall be in accordance with rules and regulations;

(7) Utilize for treatment, resource recovery, disposal or storage of all hazardous wastes, only a hazardous waste facility authorized to operate under sections 260.350 to 260.430 or the federal Resource Conservation and Recovery Act, or a state hazardous waste management program authorized under the federal Resource Conservation and Recovery Act, or any facility exempted from the permit required under section 260.395;

(8) Collect and maintain such records, perform such monitoring or analyses, and submit such reports on any hazardous waste generated, its transportation and final disposition, as specified in sections 260.350 to 260.430 and rules and regulations adopted hereunder, **provided that any generator which was a small quantity generator for the two preceding years shall not be required to submit a report more often than once during the current year;**

(9) Make available to the department upon request samples of waste and all records relating to hazardous waste generation and management for inspection and copying and allow the department to make unhampered inspections at any reasonable time of hazardous waste generation and management facilities located on the generator's property and hazardous waste generation and management practices carried out on the generator's property;

(10) Pay annually, on or before January first of each year, effective January 1, 1982, a fee to the state of Missouri to be placed in the hazardous waste fund to be used solely for the administrative costs of the program. The fee shall not exceed one dollar per ton of hazardous waste registered with the department as specified in subdivision (1) of this subsection for the twelve-month period ending June thirtieth of the previous year. The amount of the fee shall be established annually by the commission by rule or regulation. However, the fee shall not exceed ten thousand dollars per generator per year and no fee shall be imposed upon any generator who registers less than ten tons of hazardous waste annually with the department;

(a) All moneys payable under the provisions of this subdivision shall be promptly transmitted to the department of revenue, which shall deposit the same in the state treasury to the credit of the hazardous waste fund;

(b) The hazardous waste management commission shall establish and submit to the department of revenue procedures relating to the collection of the fees authorized by this subdivision. Such procedures shall include, but not be limited to, necessary records identifying the quantities of hazardous waste registered, the form and submission of reports to accompany the payment of fees, the time and manner of payment of fees, which shall not be more often than quarterly.

2. Exempted from the requirements of this section are individual householders and farmers who generate only small quantities of hazardous waste and any person the commission determines generates only small quantities of hazardous waste on an infrequent basis, except that:

(1) Householders, farmers and exempted persons shall manage all hazardous wastes they may generate in a manner so as not to adversely affect the health of humans, or pose a threat to the environment, or create a public nuisance; and

(2) The department may determine that a specific quantity of a specific hazardous waste requires special management. Upon such determination and after public notice by press release or advertisement thereof, including instructions for handling and delivery, generators exempted under this subsection shall deliver, but without a manifest or the requirement to use a licensed hazardous waste transporter, such waste to:

(a) Any storage, treatment or disposal site authorized to operate under sections 260.350 to 260.430 or the federal Resource Conservation and Recovery Act, or a state hazardous waste management program authorized under the federal Resource Conservation and Recovery Act which the department designates for this purpose; or

(b) A collection station or vehicle which the department may arrange for and designate for this purpose.

260.477. 1. The owner or operator of every hazardous waste treatment, storage and disposal unit shall pay, in addition to the other fees imposed in this chapter, a fee as provided in this section. If more than one hazardous waste treatment, storage and disposal unit is located at a site, the owner or operator shall only be required, under this section, to pay the fee based on the disposal unit with the largest fee as provided under this section.

2. The base rate of the fee shall be twenty-one thousand two hundred and fifty dollars per year. The fee for a particular disposal unit shall be determined by multiplying the base rate times the fee multiplier applicable to that disposal unit as established in subsection 3 of this section.

3. The fee multipliers for hazardous waste treatment, storage and disposal units shall be as follows:

(1) For commercial land disposal units, the multiplier shall be two, and for noncommercial land disposal units, the multiplier shall be eighty-five percent of that

amount;

(2) For commercial incinerator units, the multiplier shall be one and three-fourths, and for noncommercial incinerator units, the multiplier shall be eighty-five percent of that amount;

(3) For commercial energy recovery units, the multiplier shall be one and one-half, and for noncommercial energy recovery units, the multiplier shall be eighty-five percent of that amount; and

(4) For commercial treatment, storage and disposal units not included in subdivisions (1) to (3) of this subsection, the multiplier shall be one, and for noncommercial treatment, storage and disposal units not included in subdivisions (1) to (3) of this subsection, the multiplier shall be one-half.

4. All fees assessed under this section shall be assessed annually on a calendar-year basis, and the fees shall be based upon those treatment, storage and disposal units which have authorization to operate on July first of that year. The fees imposed in this section shall be reported and paid to the department on an annual basis not later than the thirty-first of December of that year. The payment shall be accompanied by a return in such form as the department may prescribe.

5. All moneys collected or received by the department under this section shall be transmitted to the department of revenue for deposit in the state treasury to the credit of the hazardous waste remedial fund created in section 260.480. Following each annual reporting date, the state treasurer shall certify the amount deposited in the fund to the commission.

6. If any owner or operator fails or refuses to pay the fees imposed by this section, or fails or refuses to furnish any information reasonably requested by the department relating to such fees, there shall be imposed, in addition to the fee determined to be owed, a penalty of fifteen percent of the fee, which shall be deposited in the hazardous waste remedial fund.

7. If the fees or any portion of the fees imposed by this section are not paid by the date prescribed for such payment, there shall be imposed interest upon the unpaid amount at the rate of ten percent per annum from the date prescribed for its payment until payment is actually made, which shall be deposited in the hazardous waste remedial fund.

260.479. 1. The hazardous waste management commission shall establish, by rule, [five] **three** categories of hazardous waste based [on the tonnage produced annually by individual generators and each category shall be further divided into subdivisions based] upon the management method. [Subdivision A shall include waste which is placed in a hazardous waste disposal facility or which is stored for a period of more than one hundred eighty days; provided, however, for the purposes of this section, the commission may identify hazardous waste which

shall be taxed under subdivision A when stored for longer than ninety days as well as waste which may be stored for up to one year and taxed as provided in subdivision B below. Subdivision B shall include all other hazardous waste produced. Category 1 shall contain the range of greatest production and category 5 the range of least production with categories 2, 3 and 4 containing those ranges of waste production in between 1 and 5.] **Except as otherwise provided in this section, all hazardous waste which is generated or disposed of in Missouri, or both, including waste which is used as a fuel, shall be subject to a fee as provided in this section; provided that no fee shall be required under this section for disposal of hazardous waste for which a fee has already been required under this section for generation. Hazardous waste fuel transported into the state by a fuel blender located outside of the state of Missouri shall be subject to the fee under this section, and the fuel blender shall be responsible for payment of the fee unless the fee required under this section has already been paid to the state of Missouri by the original generator or generators of the unblended hazardous wastes.**

2. The base rate of the fee shall be initially established by the hazardous waste commission by rule as provided under subsection 4 of this section. The base rate shall be annually adjusted by the hazardous waste commission by rule as needed to comply with subsection 4 of this section. The fee for a particular amount of waste shall be determined by multiplying the base rate of the fee times the fee multiplier applicable to that waste as established in subsection 3 of this section times the amount of waste.

3. The fee multipliers for hazardous wastes shall be as follows:

- (1) For hazardous wastes which are recycled, the fee multiplier shall be one;**
- (2) For hazardous wastes which are disposed of by energy recovery in some manner, including fuel blending, the fee multiplier shall be two; and**
- (3) For hazardous wastes disposed of in any manner not described in subdivision (1) or (2) of this subsection, the fee multiplier shall be three.**

4. The commission shall establish, by rule, an initial base rate of the fee for the 1999 reporting year that will, as near as practical, generate approximately one and three-fourths million dollars annually under this section. The commission shall annually review the [categories] base rate and establish [such categories] a base rate that will, as near as practical, generate approximately one and [one-half] three-fourths million dollars annually. The director shall annually request that an amount be appropriated from general revenue or federal funds which is at least equal to one-third the amount levied against hazardous waste generators pursuant to this section. If the balance of the hazardous waste remedial fund exceeds twelve million dollars during any fiscal year, the commission shall establish a new base rate that will ensure that the balance returns to less than twelve million dollars no later than the end of the following fiscal year.

[2. Based on the categories established pursuant to this section, each hazardous waste

generator registered with the department of natural resources, except the state and any political subdivision thereof, shall pay a fee based on the volume of waste produced in each of the five categories and managed under subdivisions A and B as follows:

| Category | Subdivision A | Subdivision B |
|----------|---------------|---------------|
| 1 | \$50,000 | \$25,000 |
| 2 | \$30,000 | \$15,000 |
| 3 | \$20,000 | \$10,000 |
| 4 | \$10,000 | \$5,000 |
| 5 | \$1,000 | \$500] |

5. No [company] person shall be required to pay more than one hundred and fifty thousand dollars annually under the provisions of this section. No generator shall pay more than seventy-five thousand dollars or less than fifty dollars annually per generating site under the provisions of this section. No person shall be required to pay more than a total of two hundred thousand dollars in fees annually under this section and section 260.477, and the fees required under this section shall be reduced to the extent necessary to ensure compliance with this requirement.

[3.] **6.** No tax shall be imposed under this section upon hazardous waste generators whose waste consists solely of waste oil or facilities licensed under chapter 197, RSMo. The commission may exempt intermittent generators or generators of very small volumes of hazardous waste from payment of fees required under this section, provided those generators comply with all other applicable provisions of sections 260.360 to 260.430.

[4.] **7.** Any hazardous waste generator registered with the department which discharges waste to a publicly owned treatment works having an approved pretreatment program as required by chapter 204, RSMo, shall not pay any fee required in sections 260.350 to 260.550 on such waste discharged which is in compliance with pretreatment requirements. The hazardous waste management commission may exempt such generators from the provisions of sections 260.350 to 260.430 if such exemption will not be in violation of the federal Resource Conservation and Recovery Act.

[5.] **8.** No fee shall be imposed under this section [upon any hazardous waste fuel which is produced from hazardous waste by processing, blending or other treatment and which fuel is generated after June 30, 1987, or] upon any hazardous waste which must be disposed of as provided by a remedial plan for an abandoned or uncontrolled hazardous waste site, or upon smelter slag waste from the processing of materials into reclaimed metals. **No fee shall be imposed under this section upon wastes generated by the state of Missouri or any political subdivision thereof.**

[6. The department may establish by rule and regulation categories of waste based upon waste characteristics pursuant to subsection 2 of section 260.370. When the commission adopts

hazardous waste categories, it shall establish and annually revise a fee schedule based upon waste characteristics. Each generator shall annually pay a fee, in lieu of the fee required in subsection 2 of this section, based upon the volume of waste produced annually within each hazard category.

7.] **9.** All fees within this section shall be based on hazardous waste produced within the preceding state fiscal year beginning with July first of the year this section goes into effect and payable at the end of the calendar year on December thirty-first and annually thereafter in the same manner.

[8.] **10.** The department shall promptly transmit funds collected under this section to the director of revenue for deposit in the hazardous waste remedial fund.

[9. This section shall become effective on January 1, 1987, or at such time that annual receipts to the hazardous waste remedial fund as established in section 260.480 are less than one million five hundred thousand dollars, whichever first occurs. The provisions of subsection 4 of section 260.478, notwithstanding, no tax based on the number of employees employed by a hazardous waste generator shall be collected after January 1, 1987. No tax or fee shall be levied pursuant to this section after January 1, 2000.]

Section B. The enactment of section 260.477 of this act and the repeal and reenactment of section 260.479 of this act shall become effective on January 1, 1999.

Bill

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