

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 976

93RD GENERAL ASSEMBLY

Reported from the Committee on Transportation, March 9, 2006, with recommendation that the Senate Committee Substitute do pass.

4204S.06C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal section 260.750, RSMo, and to enact in lieu thereof two new sections relating to the transportation of radioactive waste, with an emergency clause.

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

Section A. Section 260.750, RSMo, is repealed and two new sections, to be known as sections 260.392 and 260.750, to read as follows:

260.392. 1. As used in this section, the following terms mean:

2 (1) "Cask", all the components and systems associated with the
3 container in which spent fuel, high-level radioactive waste, highway
4 route controlled quantity, transuranic radioactive waste, or low specific
5 activity material are stored;

6 (2) "Entity", the generator, owner or company responsible for
7 shipment of the spent fuel, high-level radioactive waste, highway route
8 controlled quantity shipments, transuranic radioactive waste, or low
9 specific activity material;

10 (3) "High-level radioactive waste", the highly radioactive material
11 resulting from the reprocessing of spent nuclear fuel including liquid
12 waste produced directly in reprocessing and any solid material derived
13 from such liquid waste that contains fission products in sufficient
14 concentrations, and other highly radioactive material that the Nuclear
15 Regulatory Commission has determined to be high-level radioactive
16 waste requiring permanent isolation;

17 (4) "Highway route controlled quantity", as defined in 49 CFR Part
18 173.403, as amended, a quantity of radioactive material within a single

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

19 package;

20 (5) "Low specific activity" or "LSA" material, as defined in 49 CFR
21 Part 173.403, as amended, Class 7 radioactive material with limited
22 specific activity which satisfies the descriptions and limits set forth
23 below. Shielding material surrounding the LSA material may not be
24 considered in determining the estimated average specific activity of the
25 package contents. LSA material must be in one of the three groups:

26 (a) LSA-I:

27 a. Uranium and thorium ores, concentrates of uranium and
28 thorium ores, and other ores containing naturally occurring
29 radionuclides which are intended to be processed for the use of these
30 radionuclides; or

31 b. Solid unirradiated natural uranium or depleted uranium or
32 natural thorium or their solid or liquid compounds or mixtures; or

33 c. Radioactive material other than fissile material, for which the
34 A_2 value is unlimited; or

35 d. Other radioactive material, excluding fissile material in
36 quantities not excepted under 49 CFR 1 Section 173.453, in which the
37 activity is distributed throughout and the estimated average specific
38 activity does not exceed thirty times the values for activity
39 concentration specified in 49 CFR 1 Section 173.436, or thirty times the
40 default values listed in Table 8 of 49 CFR 1 Section 173.433;

41 (b) LSA-II:

42 a. Water with tritium concentration up to 0.8 TBq/L (20.0 Ci/L); or

43 b. Other radioactive material in which the activity is distributed
44 throughout and the average specific activity does not exceed 10^{-4} A_2/g for
45 solids and gases, and 10^{-5} A_2/g for liquids;

46 (c) LSA-III. Solids, such as consolidated wastes, activated
47 materials, excluding powders, that meet the requirements of 49 CFR 1
48 Section 173.468 and in which:

49 a. The radioactive material is distributed throughout a solid or
50 a collection of solid objects, or is essentially uniformly distributed in a
51 solid compact binding agent such as concrete, bitumen, ceramic, etc;

52 b. The radioactive material is relatively insoluble, or it is
53 intrinsically contained in a relatively insoluble material, so that, even
54 under loss of packaging, the loss of Class 7 radioactive material per
55 package by leaching when placed in water for seven days would not

56 exceed 0.1 A₂; and

57 c. The estimated average specific activity of the solid, excluding
58 any shielding material, does not exceed 2×10^{-3} A₂/g;

59 (6) "Spent nuclear fuel", fuel that has been withdrawn from a
60 nuclear reactor following irradiation, the constituent elements of which
61 have not been separated by reprocessing;

62 (7) "State-funded institutions of higher education", any campus of
63 any university within the state of Missouri that receives state funding
64 and has a nuclear research reactor;

65 (8) "Transuranic radioactive waste", defined in 40 CFR Part 191.02,
66 as amended, as waste containing more than one hundred nanocuries of
67 alpha-emitting transuranic isotopes with half-lives greater than twenty
68 years, per gram of waste. For the purposes of this section, transuranic
69 waste shall not include:

70 (a) High-level radioactive wastes;

71 (b) Any waste determined by the Environmental Protection
72 Agency with the concurrence of the Environmental Protection Agency
73 administrator, that does not need the degree of isolation required by
74 this section; or

75 (c) Any waste that the Nuclear Regulatory Commission has
76 approved for disposal on a case-by-case basis in accordance with 10 CFR
77 Part 61, as amended.

78 2. Any entity that ships high-level radioactive waste, transuranic
79 radioactive waste, highway route controlled quantity shipments, spent
80 nuclear fuel, or low specific activity material through or within the state
81 shall be subject to the fees established in this subsection, provided that
82 no state-funded institution of higher education that ships nuclear waste
83 shall pay any such fee. These higher education institutions shall
84 reimburse the Missouri state highway patrol directly for all costs related
85 to transport escorts. The fees for all other shipments shall be:

86 (1) One thousand eight hundred dollars for each cask transported
87 through or within the state by truck of high-level radioactive waste,
88 transuranic radioactive waste, spent nuclear fuel or highway route
89 controlled quantity shipments. All casks transported by truck are
90 subject to a surcharge of twenty-five dollars per mile for every mile over
91 two hundred miles traveled within the state;

92 (2) One thousand three hundred dollars for the first cask and one

93 hundred twenty-five dollars for each additional cask for each rail
94 transport through or within the state of high-level radioactive waste,
95 transuranic radioactive waste or spent nuclear fuel;

96 (3) One hundred twenty-five dollars for each truck or train
97 transporting low specific activity material through or within the
98 state. The department of natural resources may accept an annual
99 shipment fee as negotiated with a shipper or accept payment per
100 transport or shipment.

101 3. All revenue generated from the fees established in subsection
102 2 of this section shall be deposited into the environmental radiation
103 monitoring fund established in section 260.750 and shall be used by the
104 department of natural resources to achieve the following objectives and
105 for purposes related to the transport or shipment of high-level
106 radioactive waste, transuranic radioactive waste, highway route
107 controlled quantity shipments, spent nuclear fuel, or low specific
108 activity material, including, but not limited to:

109 (1) Inspections, escorts, and security for waste shipment and
110 planning;

111 (2) Coordination of emergency response capability;

112 (3) Education and training of state, county, and local emergency
113 responders;

114 (4) Purchase and maintenance of necessary equipment;

115 (5) Emergency responses to any transportation incident involving
116 the high-level radioactive waste, transuranic radioactive waste, highway
117 route controlled quantity shipments, spent nuclear fuel, or low specific
118 activity material;

119 (6) Oversight of any environmental remediation necessary
120 resulting from an incident involving a transport of high-level radioactive
121 waste, transuranic radioactive waste, highway route controlled quantity
122 shipments, spent nuclear fuel, or low specific activity
123 material. Reimbursement for oversight of any such incident shall not
124 reduce or eliminate the liability of any party responsible for the
125 incident; such party may be liable for full reimbursement to the state or
126 payment of any other costs associated with the cleanup of contamination
127 related to a transportation incident;

128 (7) Administrative costs attributable to the state agencies which
129 are incurred through their involvement as it relates to the transport or

130 shipping of high-level radioactive waste, transuranic radioactive waste,
131 highway route controlled quantity shipments, spent nuclear fuel, or low
132 specific activity material through or within the state.

133 4. Nothing in this section shall preclude any other state agency
134 from receiving reimbursement from the department of natural resources
135 and the environmental radiation monitoring fund for services rendered
136 that achieve the objectives and comply with the provisions of this
137 section.

138 5. The department of natural resources in coordination with the
139 department of health and senior services, and the department of public
140 safety, shall promulgate rules necessary to carry out the provisions of
141 this section.

142 6. Any rule or portion of a rule, as that term is defined in section
143 536.010, RSMo, that is created under the authority delegated in this
144 section shall become effective only if it complies with and is subject to
145 all of the provisions of chapter 536, RSMo, and, if applicable, section
146 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
147 and if any of the powers vested with the general assembly pursuant to
148 chapter 536, RSMo, to review, to delay the effective date, or to
149 disapprove and annul a rule are subsequently held unconstitutional,
150 then the grant of rulemaking authority and any rule proposed or
151 adopted after August 28, 2006, shall be invalid and void.

152 7. All funds deposited in the environmental radiation monitoring
153 fund through fees established in subsection 2 of this section shall be
154 utilized, subject to appropriation by the general assembly, for the
155 administration and enforcement of this section by the department of
156 natural resources. All interest earned by the monies in the fund shall
157 accrue to the fund.

158 8. All fees shall be received by the department of natural
159 resources prior to transport in a manner provided for in rules
160 promulgated by the department of natural resources.

161 9. Notice of any transport of high-level radioactive waste,
162 transuranic radioactive waste, highway route controlled quantity
163 shipments, spent nuclear fuel, or low specific activity material through
164 or within the state shall be provided by the shipper to the governor's
165 designee for advanced notification, as described in 10 CFR Parts 71 and
166 73, as amended, prior to such transport entering the state.

167 **10. Any shipper who fails to pay a fee assessed under this section,**
168 **or fails to provide notice of a transport, shall be liable in a civil action**
169 **for an amount not to exceed ten times the amount assessed and not**
170 **paid. The action shall be brought by the attorney general at the request**
171 **of the department of natural resources. If the action involves a facility**
172 **domiciled in the state, the action shall be brought in the circuit court of**
173 **the county in which the facility is located. If the action does not involve**
174 **a facility domiciled in the state, the action shall be brought in the circuit**
175 **court of Cole county.**

176 **11. Beginning on December 31, 2007, and every two years**
177 **thereafter, the department of natural resources shall prepare and submit**
178 **a report on activities of the environmental radiation monitoring fund to**
179 **the general assembly. This report shall include information on fee**
180 **income received and expenditures made by the state to enforce and**
181 **administer the provisions of this section.**

182 **12. The provisions of this section shall not apply to high-level**
183 **radioactive waste, transuranic radioactive waste, highway route**
184 **controlled quantity shipments, spent nuclear fuel, or low specific**
185 **activity material shipped by or for the federal government for military**
186 **or national defense purposes.**

 260.750. 1. The department of natural resources shall develop an
2 environmental radiation monitoring program for the purpose of monitoring
3 radioactivity in air, water, soil, plant and animal life as necessary to insure the
4 protection of the public health and safety of the environment from radiation
5 hazards.

6 2. There is hereby created within the state treasury an "Environmental
7 Radiation Monitoring Fund". In addition to general revenue, the department of
8 natural resources is authorized to accept and shall deposit in said fund all gifts,
9 bequests, donations, or other moneys, equipment, supplies, or services from any
10 state, interstate or federal agency, or from any institution, person, firm, or
11 corporation, public or private **as well as fees collected under subsection 2 of**
12 **section 260.392.** This fund shall be used for the environmental radiation
13 monitoring program established in this section **and to administer and enforce**
14 **the provisions of section 260.392.**

 Section B. Because immediate action is necessary to enable both the
2 promulgation of rules pertaining to the implementation of this act and to preserve
3 the state's environment, section A of this act is deemed necessary for the

4 immediate preservation of the public health, welfare, peace and safety, and is
5 hereby declared to be an emergency act within the meaning of the constitution,
6 and section A of this act shall be in full force and effect upon its passage and
7 approval.

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Unofficial

Bill

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