

SECOND REGULAR SESSION

# SENATE BILL NO. 1158

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CLEMENS.

Read 1st time February 28, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

5410S.011

## AN ACT

To repeal section 260.546, RSMo, and to enact in lieu thereof one new section relating to the payment of cleanup costs for anhydrous ammonia releases.

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

Section A. Section 260.546, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 260.546, to read as follows:

260.546. 1. In the event that a hazardous substance release occurs for  
2 which a political subdivision or volunteer fire protection association as defined  
3 in section 320.300, RSMo, provides emergency services, the person having control  
4 over a hazardous substance shall be liable for such reasonable cleanup costs  
5 incurred by the political subdivision or volunteer fire protection association. Such  
6 liability includes the cost of materials, supplies and contractual services actually  
7 used to secure an emergency situation. The liability may also include the cost for  
8 contractual services which are not routinely provided by the department or  
9 political subdivision or volunteer fire protection association. Such liability shall  
10 not include the cost of normal services which otherwise would have been  
11 provided. Such liability shall not include budgeted administrative costs or the  
12 costs for duplicate services if multiple response teams are requested by the  
13 department or political subdivision unless, in the opinion of the department or  
14 political subdivision, duplication of service was required to protect the public  
15 health and environment. Such liability shall be established upon receipt by the  
16 person having control of the spilled hazardous substance of an itemized statement  
17 of costs provided by the political subdivision.

18 2. Full payment shall be made within thirty days of receipt of the cost  
19 statement unless the person having control over the hazardous substance contests  
20 the amount of the costs pursuant to this section. If the person having control

21 over the hazardous substance elects to contest the payment of such costs, he shall  
22 file an appeal with the director within thirty days of receipt of the cost statement.

23 3. Upon receipt of such an appeal, the director shall notify the parties  
24 involved of the appeal and collect such evidence from the parties involved as he  
25 deems necessary to make a determination of reasonable cleanup costs. Within  
26 thirty days of notification of the appeal, the director shall notify the parties of his  
27 decision. The director shall direct the person having control over a hazardous  
28 substance to pay those costs he finds to be reasonable and appropriate. The  
29 determination of the director shall become final thirty days after receipt of the  
30 notice by the parties involved unless prior to such date one of the involved parties  
31 files a petition for judicial review pursuant to chapter 536, RSMo.

32 4. The political subdivision or volunteer fire protection association may  
33 apply to the department for reimbursement from the hazardous waste fund  
34 created in section 260.391 for the costs for which the person having control over  
35 a hazardous substance shall be liable if the political subdivision or volunteer fire  
36 protection association is able to demonstrate a need for immediate relief for such  
37 costs and believes it will not receive prompt payment from the person having  
38 control over a hazardous substance. When the liability owed to the political  
39 subdivision or volunteer fire protection association by the person having control  
40 over a hazardous substance is paid, the political subdivision or volunteer fire  
41 protection association shall reimburse the department for any payment it has  
42 received from the hazardous waste fund. Such reimbursement to a political  
43 subdivision or volunteer fire protection association by the department shall be  
44 paid back to the department by the political subdivision or volunteer fire  
45 protection association within that time limit imposed by the department  
46 notwithstanding failure of the person having control over a hazardous substance  
47 to reimburse the political subdivision or volunteer fire protection association  
48 within that time.

49 **5. Notwithstanding the provisions of this section to the contrary,**  
50 **any owner, as the term is defined in section 537.297, RSMo, of**  
51 **anhydrous ammonia shall not be liable for reasonable cleanup costs as**  
52 **a result of an anhydrous ammonia release caused by a tamperer, as the**  
53 **term "tamperer" is defined in section 537.297, RSMo.**

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