

SECOND REGULAR SESSION

SENATE BILL NO. 925

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CAUTHORN.

Read 1st time January 23, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

4110S.01I

AN ACT

To repeal sections 260.200, 260.262, 260.380, and 260.391, RSMo, and to enact in lieu thereof four new sections relating to hazardous waste.

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

Section A. Sections 260.200, 260.262, 260.380, and 260.391, RSMo, are
2 repealed and four new sections enacted in lieu thereof, to be known as sections
3 260.200, 260.262, 260.380, and 260.391, to read as follows:

260.200. 1. The following words and phrases when used in sections
2 260.200 to 260.345 shall mean:

3 (1) "Alkaline-manganese battery" or "alkaline battery", a battery having
4 a manganese dioxide positive electrode, a zinc negative electrode, an alkaline
5 electrolyte, including alkaline-manganese button cell batteries intended for use
6 in watches, calculators, and other electronic products, and larger-sized
7 alkaline-manganese batteries in general household use;

8 (2) "Button cell battery" or "button cell", any small alkaline-manganese
9 or mercuric-oxide battery having the size and shape of a button;

10 (3) "City", any incorporated city, town, or village;

11 (4) "Clean fill", uncontaminated soil, rock, sand, gravel, concrete, asphaltic
12 concrete, cinderblocks, brick, minimal amounts of wood and metal, and inert
13 solids as approved by rule or policy of the department for fill, reclamation or other
14 beneficial use;

15 (5) "Closure", the permanent cessation of active disposal operations,
16 abandonment of the disposal area, revocation of the permit or filling with waste
17 of all areas and volumes specified in the permit and preparing the area for
18 long-term care;

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

19 (6) "Closure plan", plans, designs and relevant data which specify the
20 methods and schedule by which the operator will complete or cease disposal
21 operations, prepare the area for long-term care, and make the area suitable for
22 other uses, to achieve the purposes of sections 260.200 to 260.345 and the
23 regulations promulgated thereunder;

24 (7) "Conference, conciliation and persuasion", a process of verbal or
25 written communications consisting of meetings, reports, correspondence or
26 telephone conferences between authorized representatives of the department and
27 the alleged violator. The process shall, at a minimum, consist of one offer to meet
28 with the alleged violator tendered by the department. During any such meeting,
29 the department and the alleged violator shall negotiate in good faith to eliminate
30 the alleged violation and shall attempt to agree upon a plan to achieve
31 compliance;

32 (8) "Demolition landfill", a solid waste disposal area used for the
33 controlled disposal of demolition wastes, construction materials, brush, wood
34 wastes, soil, rock, concrete and inert solids insoluble in water;

35 (9) "Department", the department of natural resources;

36 (10) "Director", the director of the department of natural resources;

37 (11) "District", a solid waste management district established under
38 section 260.305;

39 (12) "Financial assurance instrument", an instrument or instruments,
40 including, but not limited to, cash or surety bond, letters of credit, corporate
41 guarantee or secured trust fund, submitted by the applicant to ensure proper
42 closure and postclosure care and corrective action of a solid waste disposal area
43 in the event that the operator fails to correctly perform closure and postclosure
44 care and corrective action requirements, except that the financial test for the
45 corporate guarantee shall not exceed one and one-half times the estimated cost
46 of closure and postclosure. The form and content of the financial assurance
47 instrument shall meet or exceed the requirements of the department. The
48 instrument shall be reviewed and approved or disapproved by the attorney
49 general;

50 (13) "Flood area", any area inundated by the one hundred year flood event,
51 or the flood event with a one percent chance of occurring in any given year;

52 (14) "Household consumer", an individual who generates used motor oil
53 through the maintenance of the individual's personal motor vehicle, vessel,
54 airplane, or other machinery powered by an internal combustion engine;

55 (15) "Household consumer used motor oil collection center", any site or

56 facility that accepts or aggregates and stores used motor oil collected only from
57 household consumers or farmers who generate an average of twenty-five gallons
58 per month or less of used motor oil in a calendar year. This section shall not
59 preclude a commercial generator from operating a household consumer used
60 motor oil collection center;

61 (16) "Household consumer used motor oil collection system", any used
62 motor oil collection center at publicly owned facilities or private locations, any
63 curbside collection of household consumer used motor oil, or any other household
64 consumer used motor oil collection program determined by the department to
65 further the purposes of sections 260.200 to 260.345;

66 (17) "Infectious waste", waste in quantities and characteristics as
67 determined by the department by rule, including isolation wastes, cultures and
68 stocks of etiologic agents, blood and blood products, pathological wastes, other
69 wastes from surgery and autopsy, contaminated laboratory wastes, sharps,
70 dialysis unit wastes, discarded biologicals known or suspected to be infectious;
71 provided, however, that infectious waste does not mean waste treated to
72 department specifications;

73 (18) "Lead-acid battery", a battery designed to contain lead and sulfuric
74 acid with a nominal voltage of at least six volts and of the type intended for use
75 in motor vehicles and watercraft;

76 (19) "Major appliance", clothes washers and dryers, water heaters, trash
77 compactors, dishwashers, conventional ovens, ranges, stoves, woodstoves, air
78 conditioners, refrigerators and freezers;

79 (20) "Mercuric-oxide battery" or "mercury battery", a battery having a
80 mercuric-oxide positive electrode, a zinc negative electrode, and an alkaline
81 electrolyte, including mercuric-oxide button batteries generally intended for
82 use in hearing aids and larger size mercuric-oxide batteries used primarily in
83 medical equipment;

84 (21) "Minor violation", a violation which possesses a small potential to
85 harm the environment or human health or cause pollution, was not knowingly
86 committed, and is not defined by the United States Environmental Protection
87 Agency as other than minor;

88 (22) "Motor oil", any oil intended for use in a motor vehicle, as defined in
89 section 301.010, RSMo, train, vessel, airplane, heavy equipment, or other
90 machinery powered by an internal combustion engine;

91 (23) "Motor vehicle", as defined in section 301.010, RSMo;

92 (24) "Operator" and "permittee", anyone so designated, and shall include

93 cities, counties, other political subdivisions, authority, state agency or institution,
94 or federal agency or institution;

95 (25) "Permit modification", any permit issued by the department which
96 alters or modifies the provisions of an existing permit previously issued by the
97 department;

98 (26) "Person", any individual, partnership, corporation, association,
99 institution, city, county, other political subdivision, authority, state agency or
100 institution, or federal agency or institution;

101 (27) "Postclosure plan", plans, designs and relevant data which specify the
102 methods and schedule by which the operator shall perform necessary monitoring
103 and care for the area after closure to achieve the purposes of sections 260.200 to
104 260.345 and the regulations promulgated thereunder;

105 (28) "Recovered materials", those materials which have been diverted or
106 removed from the solid waste stream for sale, use, reuse or recycling, whether or
107 not they require subsequent separation and processing;

108 (29) "Recycled content", the proportion of fiber in a newspaper which is
109 derived from postconsumer waste;

110 (30) "Recycling", the separation and reuse of materials which might
111 otherwise be disposed of as solid waste;

112 (31) "Resource recovery", a process by which recyclable and recoverable
113 material is removed from the waste stream to the greatest extent possible, as
114 determined by the department and pursuant to department standards, for reuse
115 or remanufacture;

116 (32) "Resource recovery facility", a facility in which recyclable and
117 recoverable material is removed from the waste stream to the greatest extent
118 possible, as determined by the department and pursuant to department
119 standards, for reuse or remanufacture;

120 (33) "Sanitary landfill", a solid waste disposal area which accepts
121 commercial and residential solid waste;

122 (34) "Scrap tire", a tire that is no longer suitable for its original intended
123 purpose because of wear, damage, or defect;

124 (35) "Scrap tire collection center", a site where scrap tires are collected
125 prior to being offered for recycling or processing and where fewer than five
126 hundred tires are kept on site on any given day;

127 (36) "Scrap tire end-user facility", a site where scrap tires are used as a
128 fuel or fuel supplement or converted into a useable product. Baled or compressed
129 tires used in structures, or used at recreational facilities, or used for flood or

130 erosion control shall be considered an end use;

131 (37) "Scrap tire generator", a person who sells tires at retail or any other
132 person, firm, corporation, or government entity that generates scrap tires;

133 (38) "Scrap tire processing facility", a site where tires are reduced in
134 volume by shredding, cutting, or chipping or otherwise altered to facilitate
135 recycling, resource recovery, or disposal;

136 (39) "Scrap tire site", a site at which five hundred or more scrap tires are
137 accumulated, but not including a site owned or operated by a scrap tire end-user
138 that burns scrap tires for the generation of energy or converts scrap tires to a
139 useful product;

140 (40) "Solid waste", garbage, refuse and other discarded materials
141 including, but not limited to, solid and semisolid waste materials resulting from
142 industrial, commercial, agricultural, governmental and domestic activities, but
143 does not include hazardous waste as defined in sections 260.360 to 260.432,
144 recovered materials, overburden, rock, tailings, matte, slag or other waste
145 material resulting from mining, milling or smelting;

146 (41) "Solid waste disposal area", any area used for the disposal of solid
147 waste from more than one residential premises, or one or more commercial,
148 industrial, manufacturing, recreational, or governmental operations;

149 (42) "Solid waste fee", a fee imposed pursuant to sections 260.200 to
150 260.345 and may be:

151 (a) A solid waste collection fee imposed at the point of waste collection; or

152 (b) A solid waste disposal fee imposed at the disposal site;

153 (43) "Solid waste management area", a solid waste disposal area which
154 also includes one or more of the functions contained in the definitions of recycling,
155 resource recovery facility, waste tire collection center, waste tire processing
156 facility, waste tire site or solid waste processing facility, excluding incineration;

157 (44) "Solid waste management system", the entire process of managing
158 solid waste in a manner which minimizes the generation and subsequent disposal
159 of solid waste, including waste reduction, source separation, collection, storage,
160 transportation, recycling, resource recovery, volume minimization, processing,
161 market development, and disposal of solid wastes;

162 (45) "Solid waste processing facility", any facility where solid wastes are
163 salvaged and processed, including:

164 (a) A transfer station; or

165 (b) An incinerator which operates with or without energy recovery but
166 excluding waste tire end-user facilities; or

167 (c) A material recovery facility which operates with or without composting;
168 (46) "Solid waste technician", an individual who has successfully
169 completed training in the practical aspects of the design, operation and
170 maintenance of a permitted solid waste processing facility or solid waste disposal
171 area in accordance with sections 260.200 to 260.345;

172 (47) "Tire", a continuous solid or pneumatic rubber covering encircling the
173 wheel of any self-propelled vehicle not operated exclusively upon tracks, or a
174 trailer as defined in chapter 301, RSMo, except farm tractors and farm
175 implements owned and operated by a family farm or family farm corporation as
176 defined in section 350.010, RSMo;

177 (48) "Used motor oil", any motor oil which, as a result of use, becomes
178 unsuitable for its original purpose due to loss of original properties or the
179 presence of impurities, but used motor oil shall not include ethylene glycol, oils
180 used for solvent purposes, oil filters that have been drained of free flowing used
181 oil, oily waste, oil recovered from oil tank cleaning operations, oil spilled to land
182 or water, or industrial nonlube oils such as hydraulic oils, transmission oils,
183 quenching oils, and transformer oils;

184 (49) "Utility waste landfill", a solid waste disposal area used for fly ash
185 waste, bottom ash waste, slag waste and flue gas emission control waste
186 generated primarily from the combustion of coal or other fossil fuels;

187 (50) "Yard waste", leaves, grass clippings, yard and garden vegetation and
188 Christmas trees. The term does not include stumps, roots or shrubs with intact
189 root balls.

190 2. For the purposes of this section and sections 260.270 to [260.278]
191 **260.279** and any rules in place as of August 28, 2005, or promulgated under said
192 sections, the term "scrap" shall be used synonymously with and in place of
193 "waste", as it applies only to scrap tires.

260.262. A person selling lead-acid batteries at retail or offering lead-acid
2 batteries for retail sale in the state shall:

3 (1) Accept, at the point of transfer, in a quantity at least equal to the
4 number of new lead-acid batteries purchased, used lead-acid batteries from
5 customers, if offered by customers;

6 (2) Post written notice which must be at least four inches by six inches in
7 size and must contain the universal recycling symbol and the following language:

8 (a) It is illegal to discard a motor vehicle battery or other lead-acid
9 battery;

10 (b) Recycle your used batteries; and

11 (c) State law requires us to accept used motor vehicle batteries, or other
12 lead-acid batteries for recycling, in exchange for new batteries purchased; and

13 (3) Manage used lead-acid batteries in a manner consistent with the
14 requirements of the state hazardous waste law;

15 (4) Collect at the time of sale a fee of fifty cents for each lead-acid battery
16 sold. Such fee shall be added to the total cost to the purchaser at retail after all
17 applicable sales taxes on the battery have been computed. The fee imposed, less
18 six percent of fees collected, which shall be retained by the seller as collection
19 costs, shall be paid to the department of revenue in the form and manner
20 required by the department and shall include the total number of batteries sold
21 during the preceding month. The department of revenue shall promulgate rules
22 and regulations necessary to administer the fee collection and enforcement. The
23 terms "sold at retail" and "retail sales" do not include the sale of batteries to a
24 person solely for the purpose of resale, if the subsequent retail sale in this state
25 is to the ultimate consumer and is subject to the fee. However, this fee shall not
26 be paid on batteries sold for use in agricultural operations upon written
27 certification by the purchaser; and

28 (5) The department of revenue shall administer, collect, and enforce the
29 fee authorized pursuant to this section pursuant to the same procedures used in
30 the administration, collection, and enforcement of the general state sales and use
31 tax imposed pursuant to chapter 144, RSMo, except as provided in this
32 section. The proceeds of the battery fee, less ~~[four]~~ **one** percent of the proceeds,
33 which shall be retained by the department of revenue as collection costs, shall be
34 transferred by the department of revenue into the hazardous waste fund, created
35 pursuant to section 260.391. The fee created in subdivision (4) and this
36 subdivision shall be effective October 1, 2005. The provisions of subdivision (4)
37 and this subdivision shall terminate June 30, 2011.

260.380. 1. After six months from the effective date of the standards,
2 rules and regulations adopted by the commission pursuant to section 260.370,
3 hazardous waste generators located in Missouri shall:

4 (1) Promptly file and maintain with the department, on registration forms
5 it provides for this purpose, information on hazardous waste generation and
6 management as specified by rules and regulations. Hazardous waste generators
7 shall pay a one hundred dollar registration fee upon initial registration[, and a
8 one hundred dollar registration renewal fee annually thereafter to maintain an
9 active registration]. Such fees shall be deposited in the hazardous waste fund
10 created in section 260.391;

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

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

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

19 (5) Unless provided otherwise in the rules and regulations, utilize only a
20 hazardous waste transporter holding a license pursuant to sections 260.350 to
21 260.430 for the removal of all hazardous wastes from the premises where they
22 were generated;

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

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

35 (8) Collect and maintain such records, perform such monitoring or
36 analyses, and submit such reports on any hazardous waste generated, its
37 transportation and final disposition, as specified in sections 260.350 to 260.430
38 and rules and regulations adopted pursuant to sections 260.350 to 260.430;

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

45 (10) Pay annually, on or before January first of each year, effective
46 January 1, 1982, a fee to the state of Missouri to be placed in the hazardous
47 waste fund. The fee shall be five dollars per ton or portion thereof of hazardous

48 waste registered with the department as specified in subdivision (1) of this
49 subsection for the twelve-month period ending June thirtieth of the previous
50 year. However, the fee shall not exceed fifty-two thousand dollars per generator
51 site per year nor be less than one hundred fifty dollars per generator site per
52 year;

53 (a) All moneys payable pursuant to the provisions of this subdivision shall
54 be promptly transmitted to the department of revenue, which shall deposit the
55 same in the state treasury to the credit of the hazardous waste fund created in
56 section 260.391;

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

64 2. Missouri treatment, storage, or disposal facilities **and resource**
65 **recovery facilities** shall pay annually, on or before January first of each year
66 **in a manner prescribed in rules promulgated by the commission**, a fee to
67 the department equal to two dollars per ton or portion thereof for all hazardous
68 waste received from outside the state. **All revenues from the fee prescribed**
69 **in this subsection shall be deposited to the hazardous waste fund**
70 **created in section 260.391.** This fee shall be based on the hazardous waste
71 received for the twelve-month period ending June thirtieth of the previous year.

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

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

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

85 licensed hazardous waste transporter, such waste to:

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

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

93 4. Failure to pay the fee, or any portion thereof, prescribed in this section
94 by the due date shall result in the imposition of a penalty equal to fifteen percent
95 of the original fee. **All revenues from the penalty prescribed in this**
96 **subsection shall be deposited to the hazardous waste fund created in**
97 **section 260.391.** The fee prescribed in this section shall expire December 31,
98 2011, except that the department shall levy and collect this fee for any hazardous
99 waste generated **or received** prior to such date and reported to the department.

260.391. 1. There is hereby created in the state treasury a fund to be
2 known as the "Hazardous Waste Fund". All funds received from hazardous waste
3 permit and license fees, generator fees or taxes, penalties, or interest assessed on
4 those fees or taxes, taxes collected by contract hazardous waste landfill operators,
5 general revenue, federal funds, gifts, bequests, donations, or any other moneys so
6 designated shall be paid to the director of revenue and deposited in the state
7 treasury to the credit of the hazardous waste fund. The hazardous waste fund,
8 subject to appropriation by the general assembly, shall be used by the department
9 as provided by appropriations and consistent with rules and regulations
10 established by the hazardous waste management commission for the purpose of
11 carrying out the provisions of sections 260.350 to 260.430 and sections 319.100
12 to 319.127, [and] **319.135, 319.137, and 319.139, RSMo**, for the management of
13 hazardous waste, responses to hazardous substance releases as provided in
14 sections 260.500 to 260.550, corrective actions at regulated facilities and illegal
15 hazardous waste sites, prevention of leaks from underground storage tanks and
16 response to petroleum releases from underground and aboveground storage tanks
17 and other related activities required to carry out provisions of sections 260.350
18 to 260.575 and sections 319.100 to 319.127, **319.135, 319.137, and 319.139,**
19 **RSMo**, and for payments to other state agencies for such services consistent with
20 sections 260.350 to 260.575 and sections 319.100 to [319.139] **319.127, 319.135,**
21 **319.137, and 319.139, RSMo**, upon proper warrant issued by the commissioner
22 of administration, and for any other expenditures which are not covered pursuant

23 to the federal Comprehensive Environmental Response, Compensation and
24 Liability Act of 1980, including but not limited to the following purposes:

25 (1) Administrative services as appropriate and necessary for the
26 identification, assessment and cleanup of abandoned or uncontrolled sites
27 pursuant to sections 260.435 to 260.550;

28 (2) Payments to other state agencies for such services consistent with
29 sections 260.435 to 260.550, upon proper warrant issued by the commissioner of
30 administration, including, but not limited to, the department of health and senior
31 services for the purpose of conducting health studies of persons exposed to waste
32 from an uncontrolled or abandoned hazardous waste site or exposed to the release
33 of any hazardous substance as defined in section 260.500;

34 (3) Acquisition of property as provided in section 260.420;

35 (4) The study of the development of a hazardous waste facility in Missouri
36 as authorized in section 260.037;

37 (5) Financing the nonfederal share of the cost of cleanup and site
38 remediation activities as well as postclosure operation and maintenance costs,
39 pursuant to the federal Comprehensive Environmental Response, Compensation
40 and Liability Act of 1980; and

41 (6) Reimbursement of owners or operators who accept waste pursuant to
42 departmental orders pursuant to subdivision (2) of subsection 1 of section 260.420.

43 2. The unexpended balance in the hazardous waste fund at the end of each
44 fiscal year shall not be transferred to the general revenue fund of the state
45 treasurer, except as directed by the general assembly by appropriation, and shall
46 be invested to generate income to the fund. The provisions of section 33.080,
47 RSMo, relating to the transfer of funds to the general revenue fund of the state
48 by the state treasurer shall not apply to the hazardous waste fund.

49 3. There is hereby created within the hazardous waste fund a subaccount
50 known as the "Hazardous Waste Facility Inspection Subaccount". All funds
51 received from hazardous waste facility inspection fees shall be paid to the director
52 of revenue and deposited in the state treasury to the credit of the hazardous
53 waste facility inspection subaccount. Moneys from such subaccount shall be used
54 by the department for conducting inspections at facilities that are permitted or
55 are required to be permitted as hazardous waste facilities by the department.

56 4. The fund balance remaining in the hazardous waste remedial fund shall
57 be transferred to the hazardous waste fund created in this section.

58 5. No moneys shall be available from the fund for abandoned site cleanup
59 unless the director has made all reasonable efforts to secure voluntary agreement

60 to pay the costs of necessary remedial actions from owners or operators of
61 abandoned or uncontrolled hazardous waste sites or other responsible persons.

62 6. The director shall make all reasonable efforts to recover the full amount
63 of any funds expended from the fund for cleanup through litigation or cooperative
64 agreements with responsible persons. All moneys recovered or reimbursed
65 pursuant to this section through voluntary agreements or court orders shall be
66 deposited to the hazardous waste fund created herein.

67 7. In addition to revenue from all licenses, taxes, fees, penalties, and
68 interest, specified in subsection 1 of this section, the department shall request an
69 annual appropriation of general revenue equal to any state match obligation to
70 the U.S. Environmental Protection Agency for cleanup performed pursuant to the
71 authority of the Comprehensive Environmental Response, Compensation and
72 Liability Act of 1980.

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Bill

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