

FIRST REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 223

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RUPP.

Read 1st time January 8, 2007, and ordered printed.

Read 2nd time January 18, 2007, and referred to the Committee on Commerce, Energy and the Environment.

Reported from the Committee February 15, 2007, with recommendation that the bill do pass and be placed on the Consent Calendar.

Taken up March 7, 2007. Read 3rd time and placed upon its final passage; bill passed.

TERRY L. SPIELER, Secretary.

1055S.01P

AN ACT

To repeal section 643.079, RSMo, and to enact in lieu thereof one new section relating to air pollution emission fees.

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

Section A. Section 643.079, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 643.079, to read as follows:

643.079. 1. Any air contaminant source required to obtain a permit
2 issued under sections 643.010 to 643.190 shall pay annually beginning April 1,
3 1993, a fee as provided herein. For the first year the fee shall be twenty-five
4 dollars per ton of each regulated air contaminant emitted. Thereafter, the fee
5 shall be [annually] set **every three years** by the commission by rule and shall
6 be at least twenty-five dollars per ton of regulated air contaminant emitted but
7 not more than forty dollars per ton of regulated air contaminant emitted in the
8 previous calendar year. **If necessary, the commission may make annual**
9 **adjustments to the fee by rule.** The fee shall be set at an amount consistent
10 with the need to fund the reasonable cost of administering sections 643.010 to
11 643.190, taking into account other moneys received pursuant to sections 643.010
12 to 643.190. For the purpose of determining the amount of air contaminant
13 emissions on which the fees authorized under this section are assessed, a facility
14 shall be considered one source under the definition of subsection 2 of section
15 643.078, except that a facility with multiple operating permits shall pay the
16 emission fees authorized under this section separately for air contaminants

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

17 emitted under each individual permit.

18 2. A source which produces charcoal from wood shall pay an annual
19 emission fee under this subsection in lieu of the fee established in subsection 1
20 of this section. The fee shall be based upon a maximum fee of twenty-five dollars
21 per ton and applied upon each ton of regulated air contaminant emitted for the
22 first four thousand tons of each contaminant emitted in the amount established
23 by the commission pursuant to subsection 1 of this section, reduced according to
24 the following schedule:

25 (1) For fees payable under this subsection in the years 1993 and 1994, the
26 fee shall be reduced by one hundred percent;

27 (2) For fees payable under this subsection in the years 1995, 1996 and
28 1997, the fee shall be reduced by eighty percent;

29 (3) For fees payable under this subsection in the years 1998, 1999 and
30 2000, the fee shall be reduced by sixty percent.

31 3. The fees imposed in subsection 2 of this section shall not be imposed
32 or collected after the year 2000 unless the general assembly reimposes the fee.

33 4. Each air contaminant source with a permit issued under sections
34 643.010 to 643.190 shall pay the fee for the first four thousand tons of each
35 regulated air contaminant emitted each year but no air contaminant source shall
36 pay fees on total emissions of regulated air contaminants in excess of twelve
37 thousand tons in any calendar year. A permitted air contaminant source which
38 emitted less than one ton of all regulated pollutants shall pay a fee equal to the
39 amount per ton set by the commission. An air contaminant source which pays
40 emission fees to a holder of a certificate of authority issued pursuant to section
41 643.140 may deduct such fees from any amount due under this section. The fees
42 imposed in this section shall not be applied to carbon oxide emissions. The fees
43 imposed in subsection 1 and this subsection shall not be applied to sulfur dioxide
44 emissions from any Phase I affected unit subject to the requirements of Title IV,
45 Section 404, of the federal Clean Air Act, as amended, 42 U.S.C. 7651, et seq., any
46 sooner than January 1, 2000. The fees imposed on emissions from Phase I
47 affected units shall be consistent with and shall not exceed the provisions of the
48 federal Clean Air Act, as amended, and the regulations promulgated
49 thereunder. Any such fee on emissions from any Phase I affected unit shall be
50 reduced by the amount of the service fee paid by that Phase I affected unit
51 pursuant to subsection 8 of this section in that year. Any fees that may be
52 imposed on Phase I sources shall follow the procedures set forth in subsection 1

53 and this subsection and shall not be applied retroactively.

54 5. Moneys collected under this section shall be transmitted to the director
55 of revenue for deposit in appropriate subaccounts of the natural resources
56 protection fund created in section 640.220, RSMo. A subaccount shall be
57 maintained for fees paid by air contaminant sources which are required to be
58 permitted under Title V of the federal Clean Air Act, as amended, 42 U.S.C.
59 Section 7661, et seq., and used, upon appropriation, to fund activities by the
60 department to implement the operating permits program authorized by Title V
61 of the federal Clean Air Act, as amended. Another subaccount shall be
62 maintained for fees paid by air contaminant sources which are not required to be
63 permitted under Title V of the federal Clean Air Act as amended, and used, upon
64 appropriation, to fund other air pollution control program activities. Another
65 subaccount shall be maintained for service fees paid under subsection 8 of this
66 section by Phase I affected units which are subject to the requirements of Title
67 IV, Section 404, of the federal Clean Air Act Amendments of 1990, as amended,
68 42 U.S.C. 7651, and used, upon appropriation, to fund air pollution control
69 program activities. The provisions of section 33.080, RSMo, to the contrary
70 notwithstanding, moneys in the fund shall not revert to general revenue at the
71 end of each biennium. Interest earned by moneys in the subaccounts shall be
72 retained in the subaccounts. The per-ton fees established under subsection 1 of
73 this section may be adjusted annually, consistent with the need to fund the
74 reasonable costs of the program, but shall not be less than twenty-five dollars per
75 ton of regulated air contaminant nor more than forty dollars per ton of regulated
76 air contaminant. The first adjustment shall apply to moneys payable on April 1,
77 1994, and shall be based upon the general price level for the twelve-month period
78 ending on August thirty-first of the previous calendar year.

79 6. The department may initiate a civil action in circuit court against any
80 air contaminant source which has not remitted the appropriate fees within thirty
81 days. In any judgment against the source, the department shall be awarded
82 interest at a rate determined pursuant to section 408.030, RSMo, and reasonable
83 attorney's fees. In any judgment against the department, the source shall be
84 awarded reasonable attorney's fees.

85 7. The department shall not suspend or revoke a permit for an air
86 contaminant source solely because the source has not submitted the fees pursuant
87 to this section.

88 8. Any Phase I affected unit which is subject to the requirements of Title

89 IV, Section 404, of the federal Clean Air Act, as amended, 42 U.S.C. 7651, shall
90 pay annually beginning April 1, 1993, and terminating December 31, 1999, a
91 service fee for the previous calendar year as provided herein. For the first year,
92 the service fee shall be twenty-five thousand dollars for each Phase I affected
93 generating unit to help fund the administration of sections 643.010 to
94 643.190. Thereafter, the service fee shall be annually set by the commission by
95 rule, following public hearing, based on an annual allocation prepared by the
96 department showing the details of all costs and expenses upon which such fees
97 are based consistent with the department's reasonable needs to administer and
98 implement sections 643.010 to 643.190 and to fulfill its responsibilities with
99 respect to Phase I affected units, but such service fee shall not exceed twenty-five
100 thousand dollars per generating unit. Any such Phase I affected unit which is
101 located on one or more contiguous tracts of land with any Phase II generating
102 unit that pays fees under subsection 1 or subsection 2 of this section shall be
103 exempt from paying service fees under this subsection. A "contiguous tract of
104 land" shall be defined to mean adjacent land, excluding public roads, highways
105 and railroads, which is under the control of or owned by the permit holder and
106 operated as a single enterprise.

107 9. The department of natural resources shall determine the fees due
108 pursuant to this section by the state of Missouri and its departments, agencies
109 and institutions, including two- and four-year institutions of higher
110 education. The director of the department of natural resources shall forward the
111 various totals due to the joint committee on capital improvements and the
112 directors of the individual departments, agencies and institutions. The
113 departments, as part of the budget process, shall annually request by specific line
114 item appropriation funds to pay said fees and capital funding for projects
115 determined to significantly improve air quality. If the general assembly fails to
116 appropriate funds for emissions fees as specifically requested, the departments,
117 agencies and institutions shall pay said fees from other sources of revenue or
118 funds available. The state of Missouri and its departments, agencies and
119 institutions may receive assistance from the small business technical assistance
120 program established pursuant to section 643.173.

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