

FIRST REGULAR SESSION

SENATE BILL NO. 285

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KEHOE.

Read 1st time January 21, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1557S.011

AN ACT

To repeal sections 260.500 and 644.016, RSMo, and to enact in lieu thereof two new sections relating to the definition of waters of the state.

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

Section A. Sections 260.500 and 644.016, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 260.500 and 644.016, to
3 read as follows:

260.500. As used in sections 260.500 to 260.550, unless the context clearly
2 indicates otherwise, the following terms mean:

3 (1) "Cleanup", all actions necessary to contain, collect, control, identify,
4 analyze, clean up, treat, disperse, remove, or dispose of a hazardous substance;

5 (2) "Cleanup costs", all costs incurred by the state or any of its political
6 subdivisions, or their agents, or by any other person participating with the
7 approval of the department of natural resources in the prevention or mitigation
8 of damages from a hazardous substance emergency or the cleanup of a hazardous
9 substance involved in a hazardous substance emergency, including a
10 proportionate share of those costs necessary to maintain the services authorized
11 in sections 260.500 to 260.550;

12 (3) "Department", the department of natural resources;

13 (4) "Director", the director of the department of natural resources;

14 (5) "Hazardous substance", any substance or mixture of substances that
15 presents a danger to the public health or safety or the environment and includes:

16 (a) Any hazardous waste identified or listed by the department pursuant
17 to sections 260.350 to 260.430;

18 (b) Any element, compound, mixture, solution, or substance designated

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

19 pursuant to Sections 101(14) and 102 of the Comprehensive Environmental
20 Response, Compensation and Liability Act of 1980, as amended, and Section 302
21 of the Superfund Amendments and Reauthorization Act of 1986, as amended; and

22 (c) Any hazardous material designated by the Secretary of the United
23 States Department of Transportation pursuant to the Hazardous Materials
24 Transportation Act;

25 (d) "Hazardous substances" does not include radioactive materials, wastes,
26 emissions or discharges that are licensed or regulated by laws of the federal
27 government or of this state. However, such material released due to a
28 transportation accident shall be considered a hazardous substance;

29 (6) "Hazardous substance emergency":

30 (a) Any release of hazardous substances in quantities equal to or in excess
31 of those determined pursuant to Section 101(14) or 102 of the Comprehensive
32 Environmental Response, Compensation and Liability Act of 1980, as amended,
33 and Section 304 of the Superfund Amendments and Reauthorization Act of 1986,
34 as amended;

35 (b) Any release of petroleum including crude oil or any fraction thereof,
36 natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for
37 fuel (or mixtures of natural gas and such synthetic gas) in excess of fifty gallons
38 for liquids or three hundred cubic feet for gases, except that the notification and
39 reporting of any release of natural gas or natural gas mixtures by or from
40 intrastate facilities, regardless of the quantity of such release, shall be as
41 specified by the public service commission rather than pursuant to the
42 notification and reporting requirements contained in, or authorized by, sections
43 260.500 to 260.550. Interstate natural gas pipeline facilities shall report natural
44 gas releases to the state and the National Response Center in accordance with
45 federal Department of Transportation regulatory requirements;

46 (c) Any release of a hazardous waste which is reportable pursuant to
47 sections 260.350 to 260.430;

48 (d) Any release of a hazardous substance which requires immediate notice
49 pursuant to Part 171 of Title 49 of the Code of Federal Regulations;

50 (e) The department may promulgate rules and regulations identifying the
51 substances and the quantities thereof which, if released, constitute a hazardous
52 substance emergency;

53 (7) "Person", any individual, partnership, copartnership, firm, company,
54 public or private corporation, association, joint stock company, trust, estate,

55 political subdivision, or any agency, board, department, or bureau of the state or
56 federal government, or any other legal entity whatever which is recognized by law
57 as the subject of rights and duties;

58 (8) "Person having control over a hazardous substance", any person
59 producing, handling, storing, transporting, refining, or disposing of a hazardous
60 substance when a hazardous substance emergency occurs, including bailees,
61 carriers, and any other person in control of a hazardous substance when a
62 hazardous substance emergency occurs, whether they own the hazardous
63 substance or are operating under a lease, contract, or other agreement with the
64 legal owner thereof;

65 (9) "Release", any threatened or real emission, discharge, spillage,
66 leakage, pumping, pouring, emptying or dumping of a substance into or onto the
67 land, air or waters of the state unless done in compliance with the conditions of
68 a federal or state permit, unless the substance is confined and is expected to stay
69 confined to property owned, leased or otherwise controlled by the person having
70 control over the substance, or unless, in the case of pesticides, if application is
71 done in accordance with the product label;

72 (10) "State of Missouri basic emergency operations plan", the state plan,
73 its annexes, and appendices as developed or maintained by the state emergency
74 management agency for response to natural and man-made disasters in this state;

75 (11) "Waters of the state", all rivers, streams, lakes and other bodies of
76 surface and subsurface water lying within or forming a part of the boundaries of
77 the state which are not entirely confined and located completely upon lands
78 owned, leased or otherwise controlled by a single person or by two or more
79 persons jointly or as tenants in common [and includes waters of the United States
80 lying within the state].

644.016. When used in sections 644.006 to 644.141 and in standards, rules
2 and regulations promulgated pursuant to sections 644.006 to 644.141, the
3 following words and phrases mean:

4 (1) "Aquaculture facility", a hatchery, fish farm, or other facility used for
5 the production of aquatic animals that is required to have a permit pursuant to
6 the federal Clean Water Act, as amended, 33 U.S.C. 1251, et seq.;

7 (2) "Commission", the clean water commission of the state of Missouri
8 created in section 644.021;

9 (3) "Conference, conciliation and persuasion", a process of verbal or
10 written communications consisting of meetings, reports, correspondence or

11 telephone conferences between authorized representatives of the department and
12 the alleged violator. The process shall, at a minimum, consist of one offer to meet
13 with the alleged violator tendered by the department. During any such meeting,
14 the department and the alleged violator shall negotiate in good faith to eliminate
15 the alleged violation and shall attempt to agree upon a plan to achieve
16 compliance;

17 (4) "Department", the department of natural resources;

18 (5) "Director", the director of the department of natural resources;

19 (6) "Discharge", the causing or permitting of one or more water
20 contaminants to enter the waters of the state;

21 (7) "Effluent control regulations", limitations on the discharge of water
22 contaminants;

23 (8) "General permit", a permit written with a standard group of conditions
24 and with applicability intended for a designated category of water contaminant
25 sources that have the same or similar operations, discharges and geographical
26 locations, and that require the same or similar monitoring, and that would be
27 more appropriately controlled pursuant to a general permit rather than pursuant
28 to a site-specific permit;

29 (9) "General permit template", a draft general permit that is being
30 developed through a public participation process;

31 (10) "Human sewage", human excreta and wastewater, including bath and
32 toilet waste, residential laundry waste, residential kitchen waste, and other
33 similar waste from household or establishment appurtenances;

34 (11) "Income" includes retirement benefits, consultant fees, and stock
35 dividends;

36 (12) "Minor violation", a violation which possesses a small potential to
37 harm the environment or human health or cause pollution, was not knowingly
38 committed, and is not defined by the United States Environmental Protection
39 Agency as other than minor;

40 (13) "Permit by rule", a permit granted by rule, not by a paper certificate,
41 and conditioned by the permit holder's compliance with commission rules;

42 (14) "Permit holders or applicants for a permit" shall not include officials
43 or employees who work full time for any department or agency of the state of
44 Missouri;

45 (15) "Person", any individual, partnership, copartnership, firm, company,
46 public or private corporation, association, joint stock company, trust, estate,

47 political subdivision, or any agency, board, department, or bureau of the state or
48 federal government, or any other legal entity whatever which is recognized by law
49 as the subject of rights and duties;

50 (16) "Point source", any discernible, confined and discrete conveyance,
51 including but not limited to any pipe, ditch, channel, tunnel, conduit, well,
52 discrete fissure, container, rolling stock, concentrated animal feeding operation,
53 or vessel or other floating craft, from which pollutants are or may be
54 discharged. Point source does not include agricultural storm water discharges
55 and return flows from irrigated agriculture;

56 (17) "Pollution", such contamination or other alteration of the physical,
57 chemical or biological properties of any waters of the state, including change in
58 temperature, taste, color, turbidity, or odor of the waters, or such discharge of any
59 liquid, gaseous, solid, radioactive, or other substance into any waters of the state
60 as will or is reasonably certain to create a nuisance or render such waters
61 harmful, detrimental or injurious to public health, safety or welfare, or to
62 domestic, industrial, agricultural, recreational, or other legitimate beneficial uses,
63 or to wild animals, birds, fish or other aquatic life;

64 (18) "Pretreatment regulations", limitations on the introduction of
65 pollutants or water contaminants into publicly owned treatment works or
66 facilities which the commission determines are not susceptible to treatment by
67 such works or facilities or which would interfere with their operation, except that
68 wastes as determined compatible for treatment pursuant to any federal water
69 pollution control act or guidelines shall be limited or treated pursuant to this
70 chapter only as required by such act or guidelines;

71 (19) "Residential housing development", any land which is divided or
72 proposed to be divided into three or more lots, whether contiguous or not, for the
73 purpose of sale or lease as part of a common promotional plan for residential
74 housing;

75 (20) "Sewer system", pipelines or conduits, pumping stations, and force
76 mains, and all other structures, devices, appurtenances and facilities used for
77 collecting or conducting wastes to an ultimate point for treatment or handling;

78 (21) "Significant portion of his or her income" shall mean ten percent of
79 gross personal income for a calendar year, except that it shall mean fifty percent
80 of gross personal income for a calendar year if the recipient is over sixty years of
81 age, and is receiving such portion pursuant to retirement, pension, or similar
82 arrangement;

83 (22) "Site-specific permit", a permit written for discharges emitted from
84 a single water contaminant source and containing specific conditions, monitoring
85 requirements and effluent limits to control such discharges;

86 (23) "Treatment facilities", any method, process, or equipment which
87 removes, reduces, or renders less obnoxious water contaminants released from
88 any source;

89 (24) "Water contaminant", any particulate matter or solid matter or liquid
90 or any gas or vapor or any combination thereof, or any temperature change which
91 is in or enters any waters of the state either directly or indirectly by surface
92 runoff, by sewer, by subsurface seepage or otherwise, which causes or would cause
93 pollution upon entering waters of the state, or which violates or exceeds any of
94 the standards, regulations or limitations set forth in sections 644.006 to 644.141
95 or any federal water pollution control act, or is included in the definition of
96 pollutant in such federal act;

97 (25) "Water contaminant source", the point or points of discharge from a
98 single tract of property on which is located any installation, operation or
99 condition which includes any point source defined in sections 644.006 to 644.141
100 and nonpoint source pursuant to any federal water pollution control act, which
101 causes or permits a water contaminant therefrom to enter waters of the state
102 either directly or indirectly;

103 (26) "Water quality standards", specified concentrations and durations of
104 water contaminants which reflect the relationship of the intensity and
105 composition of water contaminants to potential undesirable effects;

106 (27) "Waters of the state", all rivers, streams, lakes and other bodies of
107 surface and subsurface water lying within or forming a part of the boundaries of
108 the state which are not entirely confined and located completely upon lands
109 owned, leased or otherwise controlled by a single person or by two or more
110 persons jointly or as tenants in common [and includes waters of the United States
111 lying within the state].

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