

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0583-06  
Bill No.: Truly Agreed To and Finally Passed CCS for HCS for SS for SB 135  
Subject: Agriculture Department; Business and Commerce; Environmental Protection;  
Fees; Merchandising Practices; Motor Fuel; Natural Resources Department;  
Waste - Hazardous  
Type: Original  
Date: June 1, 2011

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Bill Summary: This proposal modifies provisions pertaining to the storage and dispensing of motor fuel and extends the expiration date to August 28, 2022 for environmental laws relating to dry-cleaning facilities.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
General Revenue	\$0	\$0	\$0
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 16 pages.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
Petroleum Storage Tank Insurance Fund	\$0	(\$212,235 to \$271,200)	(\$302,225 TO \$361,100)
Hazardous Waste Fund	\$450,000	\$1,330,000	\$1,880,000
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$450,000</b>	<b>\$1,058,800 to \$1,117,765</b>	<b>\$1,518,900 to \$1,577,775</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
Federal Funds	(\$72,432)	(\$79,450)	(\$81,830)
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>(\$72,432)</b>	<b>(\$79,450)</b>	<b>(\$81,830)</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
Federal Funds	1	1	1
<b>Total Estimated Net Effect on FTE</b>	<b>1</b>	<b>1</b>	<b>1</b>

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**FISCAL ANALYSIS**

**ASSUMPTION**

Officials from the **Department of Agriculture, Department of Transportation, Franklin County, St. Louis County, Department of Revenue and State Treasurer’s Office** assume there will be no fiscal impact to their agencies.

Officials from the **Department of Natural Resources (DNR)** assume under Section 319.130 the Board of Directors of the Petroleum Storage Tank Insurance Fund would hold one or more public hearings to determine whether to create and fund an underground storage tank operator training program. The Department would work with the Department of Agriculture, the Board's Advisory Committee, and affected portions of the private sector to ensure the program meets federal requirements and take action should owners or operators fail to comply.

**Underground Storage Tank Operator Training Program (Section 319.130)**  
**Department of Natural Resources**

The Department would require 1 FTE (Environmental Specialist III) to conduct overview of the program and enforcement of non-compliers.

The ES III would perform on-site visits to underground storage tank facilities to review operator training records and to audit training classes conducted by the owner/operator. The ES III would be responsible for answering questions and providing technical assistance to owners/operators, both written and verbal, regarding operator training certification requirements. Additionally, the ES III would be responsible for assuring that proper records are maintained by the owner/operator and develop a means of tracking compliance with the requirements of this proposal. The ES III would also assist in establishing rules required under this legislation.

**Petroleum Storage Tank Insurance Fund (PSTIF)**

Existing staff would need to invest time for the first 1-2 years after passage of the bill to confer with industry representatives and other state agencies, hold a public hearing, write regulations (if the PSTIF Board decides to create and fund a training program), and implement a training program. After two years, it is expected the demand on staff time will decrease. It is not

ASSUMPTION (continued)

anticipated that any new employees will be required, although the Board may revise one or more of its existing contracts with service providers or may enter into new contracts.

PSTIF officials:

Assume interagency collaboration, public hearing and rulemaking would be done using existing staff.

Assume a decision is made by PSTIF Board during FY12 by the PSTIF Board to create and fund a training program.

Assume regulations are promulgated during FY12 and training is initiated in FY13.

Multiple vendors have designed and are offering training already; assume Missouri reviews and approves at least two vendors' training courses for use by Missouri UST operators, with the cost reimbursed by the PSTIF.

Assume the PSTIF Board decides to combine Class A and Class B training, as some other states have done.

Assume the cost of class A/B training courses ranges from \$150 per person to \$200 per person, and that the cost for Class C training courses is \$15 per person.

Assume PSTIF will incur onetime software setup costs via its third party administrator of \$20,000 to modify its existing software or create new software, to maintain records on which UST sites have trained their personnel.

Assume a cost of \$10 per operating UST site per year to maintain training records and issue payments to trainers, (i.e., approved vendors).

Assume the PSTIF Board decides to implement 3 categories of training – Class A, Class B and Class C operators – as per federal guidelines.

Assume a 2-year period, (FY13 and FY14) to conduct training of Class A/B personnel for every operating UST location in the state.

There are currently approximately 3140 sites with operating USTs in Missouri, owned by approximately 1645 different owners. Assume that some owners have a single person serve as the Class A/B operator for multiple locations. As a best guess, assume that a total of 2,355

ASSUMPTION (continued)

persons, (3/4 of 3140), will require Class A/B training. Assume that the training of Class A/B persons will occur over FY13 and FY14. Assume 10% of Class A/B persons will need retraining, (due to personnel turnover or other reasons), each year, beginning in FY15 and annually thereafter.

Further, assume that the PSTIF will incur costs to train approximately 6280, (2 x 3140), Class C operators, beginning in FY14 and annually thereafter. (There is a high turnover rate among Class C personnel; some large owners will train their own Class C personnel at no cost to the PSTIF; however, it is likely that small businesses will want the PSTIF to offer and pay for training of their Class C personnel.)

FY13 – lower range cost estimate

$$\$20,000 + \frac{1}{2}(2355 \times \$150) + \frac{1}{2}(3140 \times \$10) = \$212,325$$

FY13 – higher range cost estimate

$$\$20,000 + \frac{1}{2}(2355 \times \$200) + \frac{1}{2}(3140 \times \$10) = \$271,200$$

FY14 – lower range cost estimate

$$\frac{1}{2}(2355 \times \$150) + (6280 \times \$15) + (3140 \times \$10) = \$302,225$$

FY14 – higher range cost estimate

$$\frac{1}{2}(2355 \times \$200) + (6280 \times \$15) + (3140 \times \$10) = \$361,100$$

FY15 – lower range cost estimate

$$0.1(2355 \times \$150) + (6280 \times \$15) + (3140 \times \$10) = \$160,925$$

FY15 – higher range cost estimate

$$0.1(2355 \times \$200) + (6280 \times \$15) + (3140 \times \$10) = \$172,700$$

Dry-Cleaning (Section 260.965)

Department of Natural Resources

Current law directs the department to administer the Drycleaning Environmental Response Trust Fund through August 28, 2012. This proposal would revise Section 260.965, RSMo by extending the expiration date to August 28, 2017 resulting in an additional five years of overseeing the fund with the associated operating costs. The costs associated with the proposed extension are a continuation of existing costs and would not result in additional budget increases to the department.

ASSUMPTION (continued)

Based on the most current reporting information, the revenues for the Drycleaning Environmental Response Trust Fund are estimated at \$338,741 in FY2011 with a decrease of approximately 1.2% annually through the life of the fund. This proposal would extend the revenues through FY2018. The department assumes the revenue would be used to fund continued investigation, assessment and remediation of releases of solvents from dry cleaning facilities and administer the DERT program.

The Department estimates the funds available through Aug. 28, 2012 will fund approximately 25 site reimbursements. In future years, reimbursements for cleanup costs are projected to decrease due to available funds and the reduction in staffing and related oversight capacity. The projections assume the current level of FTEs will be slowly decreased to a minimum of 2.5 to continue to provide a reduced level of services through the sunset date.

The Department projected activities from FY2013 through the first 2 months of FY2018 with the extension of this program. The Department assumes we would continue to receive additional applications and oversee on-going and additional cleanups. Based on current revenue projections, even with the revenues received from the proposed extension, if complete reimbursements are the goal then the fund would have to cease accepting new applications at some point during the extension period.

Depending on the timing of site cleanup and reimbursement requests the fund would become insolvent prior to the sunset date in FY 2018. The department assumes that if the sunset is not extended we would discontinue collecting fees and administering the DERT program. It is undetermined at this time how the close out of the program and any remaining fund balance would be handled.

Motor Fuel Measuring Devices, Motor Fuel Mandate, Vapor Recovery Fees (Sections 414.072, 414.074 and Section 1)

Department of Natural Resources

The department would not anticipate any significant direct fiscal impact from these provisions of the proposal.

Section 253.090

Officials from the **Department of Natural Resources (DNR)** assume this proposal authorizes the State Treasurer to deposit all monies in the State Parks Earnings Fund in any of the qualified depositories of the State.

ASSUMPTION (continued)

Revenue into the State Parks Earnings (SPE) are derived from privileges, conveniences, concessionaire contracts and/or all money received by gifts, bequests, or contributions from county or municipal resources. Currently, interest received on these funds is deposited into the General Revenue Fund. No new fees or taxes are being requested under this legislation.

The State Parks Earnings Fund established in 253.090 RSMo, receives revenue from the operation of concessions, gifts, donations and revenue from resale items, and is to be used solely for the operation and maintenance, capital improvements, land purchases, and management of Missouri's 85 State Parks and Historic Sites. This provision would reaffirm that the department can use the fund for its intended purpose.

Section 260.262, 260.380 and 260.475

Officials from the **Department of Natural Resources (DNR)** assume under Section 260.262, this proposal would extend the expiration date of the \$0.50 fee on the sale of lead-acid batteries from June 30, 2011 through December 31, 2013. The department estimates approximately \$1.6 million would be collected for the lead-acid battery fee for the four and one-half year period as revenue to the Hazardous Waste Fund.

Sections 260.380 and 260.475 would extend the hazardous waste fees for two years from December 31, 2011 through December 31, 2013. The department estimates approximately \$2.8 million would be collected for land disposal fees, generator registration/annual renewal fees, in-state tonnage fees, and out-of-state tonnage fees from this extension.

Scrap Tires (Section 260.269)

Officials from the **Department of Natural Resources** assume, as written, this portion of the proposal appears to be permissive; therefore, for purposes of this fiscal note the department would not anticipate a direct fiscal impact.

Coolers on Rivers (Section 306.109)

Officials from the **Department of Natural Resources** assume this portion of the proposal repeals the provision which prohibits expanded polypropylene coolers from being on or within 50 feet of any river in this state with certain exceptions. The department would not anticipate a direct fiscal impact.

ASSUMPTION (continued)

Well Regulations/Charitable or Benevolent Organization (Section 640.116)

Officials from the **Department of Natural Resources** would not anticipate a direct fiscal impact as a result of this proposal, as department activities would be related to rulemaking and the addition of checking water usage during inspections.

Professional Engineers (Section 640.905)

Officials from the **Department of Natural Resources** would not anticipate a direct fiscal impact from this portion of the proposal.

Section 640.905

Officials from the **Office of Administration, Department of Transportation, Department of Conservation, Department of Natural Resources and Department of Corrections** assume there will be no fiscal impact to their agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
<b>GENERAL REVENUE</b>			
 <b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
 <b>PETROLEUM STORAGE TANK INSURANCE FUND</b>			
 Cost - Petroleum Storage Tank Insurance Fund - Professional Services	<u>\$0</u>	<u>(\$212,235 to \$271,200)</u>	<u>(\$302,225 to \$361,100)</u>
 <b>ESTIMATED NET EFFECT ON PETROLEUM STORAGE TANK INSURANCE FUND</b>	<b><u>\$0</u></b>	<b><u>(\$212,235 to \$271,200)</u></b>	<b><u>(\$302,225 to \$361,100)</u></b>
 <b>HAZARDOUS WASTE FUND</b>			
 <u>Sections 260.262, 260.380 &amp; 260.475</u> <u>Revenue - Department of Natural</u> <u>Resources</u>			
Hazardous Waste Fees	\$0	\$700,000	\$1,400,000
Lead Acid Battery Fees	<u>\$450,000</u>	<u>\$630,000</u>	<u>\$480,000</u>
 <b>ESTIMATED NET EFFECT ON HAZARDOUS WASTE FUND</b>	<b><u>\$450,000</u></b>	<b><u>\$1,330,000</u></b>	<b><u>\$1,880,000</u></b>

FISCAL IMPACT - Federal Government

<b>FEDERAL FUNDS</b>	FY 2012 (10 Mo.)	FY 2013	FY 2014
<u>Cost - Department of Natural Resources</u>			
Salaries	(\$39,696)	(\$49,065)	(\$50,536)
Fringe Benefits	(\$20,777)	(\$25,681)	(\$26,451)
Equipment & Expense	<u>(\$11,959)</u>	<u>(\$4,704)</u>	<u>(\$4,843)</u>
<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>	<b><u>(\$72,432)</u></b>	<b><u>(\$79,450)</u></b>	<b><u>(\$81,830)</u></b>
Estimated Net FTE Change	1	1	1
<u>FISCAL IMPACT - Local Government</u>			
	FY 2012 (10 Mo.)	FY 2013	FY 2014
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT - Small Business

Dry-Cleaning (Section 260.965)

Department of Natural Resources

Dry cleaning facilities would continue to operate under current statutes and pay applicable registration fees. Solvent suppliers would continue to pay a surcharge on the amount of solvents supplied to dry cleaning facilities.

The DERT would continue to provide potential reimbursement for drycleaners cleanup expenses on contaminated sites.

Underground Storage Tank Operator Training Program (Section 319.130)

Department of Natural Resources

Because the legislation requires operator certification training to be provided at no cost to the participant, we do not anticipate an economic impact on small business.

Petroleum Storage Tank Insurance Fund

Yes, if the PSTIF Board of Trustees determines that an operator training program is required, at least one employee for every convenience store and other location where fuel is stored in

FISCAL IMPACT - Small Business (continued)

underground tanks will have to be trained. Though the training will be provided at no charge, to the extent that the employee(s) are diverted from their regular duties to attend a training class, there will be lost productivity for the business

Hazardous Waste/Battery Fees Extension (Section 260.262, 260.380 and 260.475)

Yes. Retail facilities that sell lead-acid batteries would continue to collect the fee as allowed under this proposal and transfer the fees and remittance reports to the Department of Revenue. They would continue to retain 6% of the fees for collection costs. Section 260.262 would be extended until December 31, 2013.

Small businesses that purchase lead-acid batteries would continue to be subject to the \$.50 fee on each battery purchased.

Section 260.475 requires every hazardous waste generator located in Missouri to pay, in addition to the fees imposed in section 260.380, a fee of twenty-five dollars per ton annually on all hazardous waste which is discharged, deposited, dumped or placed into or on the soil as a final action, and two dollars per ton on all other hazardous waste transported off site.

Section 260.380 requires that all hazardous waste generators pay a one hundred dollar registration fee upon initial registration, and a one hundred dollar registration renewal fee annually thereafter to maintain an active registration.

Generators pay annually a fee of five dollars per ton or portion thereof of hazardous waste registered with the department not to exceed fifty-two thousand dollars per generator site per year nor be less than one hundred fifty dollars per generator site per year.

Missouri treatment, storage, or disposal facilities pay annually a fee equal to two dollars per ton or portion thereof for all hazardous waste received from outside the state.

Registered hazardous waste generators subject to the hazardous waste fees would be impacted. Under this proposal, there would be no change to the current system, except that the fee expiration is extended to December 31, 2013.

FISCAL IMPACT - Small Business (continued)

Scrap Tires (Section 260.269)

The proposed legislation could have a positive economic impact on small businesses that are permitted scrap tire haulers, permitted scrap tire processing facilities or end users of scrap tire materials. Nearly 5.5 million scrap tires are generated each year in Missouri.

The positive impacts that could result from the proposed legislation are:

Increased revenue for permitted scrap tire haulers paid by state agencies or political subdivisions for transporting tires to a permitted scrap tire processing facility or end user of tire shred material.

Increased revenue for permitted scrap tire processing facilities or end users of tire shred material paid by state agencies or political subdivisions for taking the scrap tires or scrap tire shreds for recycling or disposal.

The negative impact that could result from this proposed legislation is:

The number of scrap tires remaining available from illegal dump site clean-ups across Missouri which require recycling or disposal by state agencies or political subdivisions is decreasing. Small processors may eventually be forced into competition with each other for available scrap tires or tire shred material. This could result in reduced revenues to the processors and end users as prices paid by state agencies or political subdivisions would likely decrease as competition for the remaining scrap tires and scrap tire shreds increases. (Note: The large tire piles of the 1970s and 1980s have been cleaned-up. The Department is currently working to clean tires from historic dump sites which frequently consist of fewer tires spread across larger acreages resulting in higher labor costs for clean-up activities.)

FISCAL DESCRIPTION

This act modifies provisions pertaining to environmental protection.

**SECTION 253.090 - STATE PARK EARNINGS FUND**

The act exempts monies in the State Park Earnings Fund from being transferred to the General Revenue Fund in the biennial sweep.

This section is similar to HCS/HB 89 (2011), HB 823 (2011), and HB 191 (2011).

DESCRIPTION (continued)

SECTION 260.262 - LEAD-ACID BATTERY FEE

The act extends the expiration date from June 30, 2011 to December 31, 2013 for the fee assessed per lead-acid battery sold in the state.

This section is similar to HB 98 (2011) and HB 2086 (2010).

SECTION 260.269 - SCRAP TIRES

The act allows the state or any political subdivision to transfer ownership of scrap tires or tire shred to any Missouri-based company if the cost of the transfer is less than the cost of disposal of the tires, and as long as the company does not put the tires in a landfill or burn them as a fuel source unless the company has a permit to do so. The company must bear the cost of transporting the tires to its facility.

This section is similar to SCS/SB 230 (2011) and identical to TAT/SCS/HCS/HB 578 (2011).

SECTIONS 260.380 AND 260.475 - HAZARDOUS WASTE FEES

The expiration date for fees assessed to generators, transporters, and disposers of hazardous waste is extended from December 31, 2011 to December 31, 2013.

These sections are similar to HB 98 (2011).

SECTION 260.965 - DRY-CLEANING FACILITIES

Under current law, the state statutes regarding dry-cleaning facility environmental remediation, including payments into the Dry-Cleaning Environmental Response Trust Fund, expire on August 28, 2012. The act extends the expiration date to August 28, 2017.

SECTION 306.109 - EXPANDED POLYPROPYLENE COOLERS

Current law prohibits the possession of expanded polypropylene coolers on or within 50 feet of certain rivers in the state except in certain areas. The act removes this prohibition.

SECTIONS 319.130 & 319.132 - PETROLEUM STORAGE TANK INSURANCE FUND

DESCRIPTION (continued)

By April 1, 2012, the Board of Trustees of the Petroleum Storage Tank Insurance Fund must hold at least one public hearing to determine if it should create an underground storage tank operator training program. In making its decision, the Board must consider: input from the Departments of Natural Resources and Agriculture, the Board's advisory committee, and relevant portions of the private sector; federal financial ramifications; and other training programs already in use.

If the Board decides that a training program is necessary, the act lists requirements for the program. The program must meet federal requirements, be developed in collaboration with certain entities, be offered at no cost to individuals who are required to attend, specify certain standards and documentation requirements, and be developed by rule. The Board may contract with third parties to provide the training. The Board may modify or eliminate the program by rule. Records for the program must be made readily available to the Department of Natural Resources.

SECTION 414.072 - MOTOR FUEL

State and local governments may not use a manufacturer's expiration date on motor fuel measuring devices and dispensing equipment as the only reason to require repair or replacement of the equipment or issue a fine or penalty.

The required use of any automatic volumetric correction device for measuring fuel by gas stations must first be authorized by state statute before it may be imposed.

SECTION 640.116 - EXEMPTION FOR WELL CONSTRUCTION REQUIREMENTS

Water systems that serve charitable or benevolent organizations that do not regularly serve an average of 100 persons or more for at least 60 days of the year and that are not used for a school or day-care are exempt from well construction rules unless the system is a threat to groundwater or public health. Such wells are not exempt from certain rules applicable to multi-family wells. The act lists certain actions that a well owner must take in the event of certain coliform contamination violations.

No charitable or benevolent organization that is exempt from the well construction rules will be required to replace, change, upgrade, or alter any well if the well was constructed before August 28, 2011, unless the well poses a threat to groundwater or public health or has certain coliform contamination violations.

This section is identical to HCS/HB 250 (2011).

VL:LR:OD (12/02)

DESCRIPTION (continued)

SECTION 640.905 - ENGINEERING WORK FOR PERMIT APPLICATIONS

If certain technical engineering documents have been prepared by a registered professional engineer and are submitted to the Department of Natural Resources in conjunction with a permit application or permit modification, the documents must be sealed by the engineer and the permit application or modification must include a statement that the documents were prepared in accordance with all applicable requirements. The department must use the documents in addition to other relevant information to develop comments and render a permit decision. Only a registered professional engineer or engineering intern may review the sealed engineering documents. The act also provides procedures for supervisory review of engineering documents.

This section is similar to a provision in TAT/SS/SCS/HCS/HB 89 (2011).

SECTION 1. - MOTOR FUEL VAPOR RECOVERY FEES

Only the Department of Natural Resources may set Stage 1 and Stage 2 motor fuel vapor recovery fees and such fees may not be modified by local governments or local enforcement agencies.

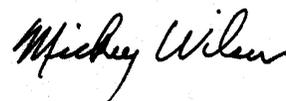
This act contains provisions similar to SB 1040 (2010) and SB 885 (2010).

The act contains an emergency clause for the sections relating to the State Park Earnings Fund (253.090), lead-acid battery fee (260.262), and hazardous waste fees (260.380 & 260.475).

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Agriculture  
Department of Transportation  
Department of Natural Resources  
State Treasurer's Office  
Department of Revenue  
St. Louis County  
Franklin County  
Office of Administration -  
    Division of Budget and Planning  
Department of Conservation  
Department of Corrections



Mickey Wilson, CPA  
Director  
June 1, 2011