

FIRST REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

CONFERENCE COMMITTEE SUBSTITUTE FOR

SENATE SUBSTITUTE FOR

SENATE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 734

95TH GENERAL ASSEMBLY

1954L.07T

2009

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## AN ACT

To repeal sections 266.331, 644.036, 644.054, 701.500, 701.503, and 701.506, RSMo, and to enact in lieu thereof nine new sections relating to natural resources, with an emergency clause for a certain section.

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

Section A. Sections 266.331, 644.036, 644.054, 701.500, 701.503, and 701.506, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 8.305, 266.331, 644.036, 644.054, 701.500, 701.502, 701.503, 701.506, and 1, to read as follows:

**8.305. 1. Any appliance purchased with state moneys or a portion of state moneys shall be an appliance that has earned the Energy Star under the Energy Star program co-sponsored by the United States Department of Energy and the United States Environmental Protection Agency. For purposes of this section, the term "appliance" shall have the same meaning as in section 144.526, RSMo.**

**2. The commissioner of the office of administration may exempt any appliance from the requirements of subsection 1 of this section when the cost of compliance is expected to exceed the projected energy cost savings gained.**

**3. The provisions of this section shall expire on August 28, 2011.**

266.331. Every distributor shall, within thirty days after each six-months' period ending June thirtieth and December thirty-first, file with the director on forms supplied by him, a sworn certificate setting forth the information required by the director by rule. At the time of filing said certificate, each distributor **of fertilizer, excluding manipulated animal or vegetable manure**, shall pay to the director the fee prescribed by the director by rule, which fee shall not exceed one dollar per ton and one dollar ten cents per metric ton; except that, sales to fertilizer manufacturers or exchanges between them are hereby exempted. **Each distributor of fertilizer consisting of manipulated animal or vegetable manure shall pay to the director a fee paid for each ton of manure as prescribed by the director by rule, which fee shall not exceed two cents for each percent nitrogen for manure containing less than five percent nitrogen; or which fee shall not exceed four cents for each percent nitrogen for manure containing at least five but less than ten percent nitrogen; or which fee shall not exceed six cents for each percent nitrogen for manure containing ten or more percent nitrogen.** In the event that the director has not prescribed a fee under this section, each distributor required to pay a fee under this section shall pay a fee of one and one-half cents for each one hundred pounds of fertilizer sold by him during the period covered by the certificate filed under this section. The fees so paid to the director shall be used for defraying the expenses in administering sections 266.291 to 266.351 and the rules promulgated under sections 266.291 to 266.351, and for practical and scientific experiments by the Missouri agricultural experiment station in the value and proper use of fertilizers. Such fees may also be used to support such related research and methodology, publications, and educational programs extending the results of the fertilizer experiments as may be of practical use to the farmers of this state.

644.036. 1. No standard, rule or regulation or any amendment or repeal thereof shall be adopted except after a public hearing to be held after thirty days' prior notice by advertisement of the date, time and place of the hearing and opportunity given to the public to be heard. Notice of the hearings and copies of the proposed standard, rule or regulation or any amendment or repeal thereof shall also be given by regular mail, at least thirty days prior to the scheduled date of the hearing, to any person who has registered with the director for the purpose of receiving notice of such public hearings in accordance with the procedures prescribed by the commission at least forty-five days prior to the scheduled date of the hearing. However, this provision shall not preclude necessary changes during this thirty-day period.

2. At the hearing, opportunity to be heard by the commission with respect to the subject thereof shall be afforded any interested person upon written request to the commission, addressed to the director, not later than seven days prior to the hearing, and may be afforded to other persons if convenient. In addition, any interested persons, whether or not heard, may submit, within seven days subsequent to the hearings, a written statement of their views. The commission may solicit the views, in writing, of persons who may be affected by, or interested in, proposed rules and regulations, or standards. Any person heard or represented at the hearing or making written request for notice shall be given written notice of the action of the commission with respect to the subject thereof.

3. Any standard, rule or regulation or amendment or repeal thereof shall not be deemed adopted or in force and effect until it has been approved in writing by at least four members of the commission. A standard, rule or regulation or an amendment or repeal thereof shall not become effective until a certified copy thereof has been filed with the secretary of state as provided in chapter 536, RSMo.

4. Unless prohibited by any federal water pollution control act, any standard, rule or regulation or any amendment or repeal thereof which is adopted by the commission may differ in its terms and provisions as between particular types and conditions of water quality standards or of water contaminants, as between particular classes of water contaminant sources, and as between particular waters of the state.

5. Any listing required by Section 303(d) of the federal Clean Water Act, as amended, 33 U.S.C. 1251, et seq., to be sent to the U.S. Environmental Protection Agency for its approval that will result in any waters of the state being classified as impaired shall be adopted by the commission after a public hearing, or series of hearings, held in accordance with the following procedures. The department of natural resources shall publish in at least six regional newspapers, in advance, a notice by advertisement the availability of a proposed list of impaired waters of the state and such notice shall include at least ninety days' advance notice of the date, time, and place of the public hearing and opportunity given to the public to be heard. Notice of the hearings and copies of the proposed list of impaired waters also shall be posted on the department of natural resources' web site and given by regular mail, at least ninety days prior to the scheduled date of the hearing, to any person who has registered with the director for the purpose of receiving notice of such public hearings. The proposed list of impaired waters shall identify the water segment, the uses to be made of such waters, the uses impaired, identify the pollutants causing or expected to cause violations of the applicable water

quality standards, and provide a summary of the data relied upon to make the preliminary determination. Contemporaneous with the publication of the notice of public hearing, the department shall make available on its web site all data and information it relied upon to prepare the proposed list of impaired waters, including a narrative explanation of how the department determined the water segment was impaired. At any time after the public notice and until seven days after the public hearing, the department shall accept written comments on the proposed list of impaired waters. After the public hearing and after all written comments have been submitted, the department shall prepare a written response to all comments and a revised list of impaired waters. The commission shall adopt a list of impaired waters in a public meeting during which the public shall be afforded an opportunity to respond to the department's written response to comments and revised list of impaired waters. Notice of the meeting shall include the date, time, and place of the public meeting and shall provide notice that the commission will give interested persons the opportunity to respond to the department's revised list of impaired waters and written responses to comments. At its discretion, the commission may extend public comment periods or hold additional public hearings on the proposed and revised lists of impaired waters. The commission shall not vote to add to the list of impaired waters any waters not recommended by the department in the proposed or revised lists of impaired waters without granting the public at least thirty additional days to comment on the proposed addition. The list of impaired waters adopted by the commission shall not be deemed to be a rule as defined by section 536.010, RSMo. The listing of any water segment on the list of impaired waters adopted by the commission shall be subject to judicial review by any adversely affected party under section 536.150, RSMo. The provisions in this subsection shall expire on August 28, [2009] **2010**.

644.054. 1. Fees imposed in sections 644.052 and 644.053 shall, except for those fees imposed pursuant to subsection 4 and subsections 6 to 13 of section 644.052, become effective October 1, 1990, and shall expire December 31, [2009] **2010**. Fees imposed pursuant to subsection 4 and subsections 6 to 13 of section 644.052 shall become effective August 28, 2000, and shall expire on December 31, [2009] **2010**. The clean water commission shall promulgate rules and regulations on the procedures for billing and collection. All sums received through the payment of fees shall be placed in the state treasury and credited to an appropriate subaccount of the natural resources protection fund created in section 640.220, RSMo. Moneys in the subaccount shall be expended, upon appropriation, solely for the administration of sections 644.006 to 644.141. Fees collected pursuant to subsection 10 of section 644.052 by a city, a public

sewer district, a public water district or other publicly owned treatment works are state fees. Five percent of the fee revenue collected shall be retained by the city, public sewer district, public water district or other publicly owned treatment works as reimbursement of billing and collection expenses.

2. The commission may grant a variance pursuant to section 644.061 to reduce fees collected pursuant to section 644.052 for facilities that adopt systems or technologies that reduce the discharge of water contaminants substantially below the levels required by commission rules.

3. Fees imposed in subsections 2 to 6 of section 644.052 shall be due on the date of application and on each anniversary date of permit issuance thereafter until the permit is terminated.

4. There shall be convened a joint committee appointed by the president pro tem of the senate and the speaker of the house of representatives to consider proposals for restructuring the fees imposed in sections 644.052 and 644.053. The committee shall review storm water programs, the state's implementation of the federal clean water program, storm water, and related state clean water responsibilities, and evaluate the costs to the state for maintaining the programs. The committee shall prepare and submit a report, including recommendations on funding the state clean water program, and storm water programs, to the governor, the house of representatives, and the senate no later than December 31, 2008.

701.500. 1. As used in sections 701.500 to 701.515, the following terms shall mean:

- (1) "Department", the department of natural resources;
- (2) "Director", the director of the department of natural resources;
- (3) "Energy star program", a joint program of the United States Environmental Protection Agency and the United States Department of Energy that identifies and promotes energy efficient products and practices.

2. The provisions of sections 701.500 to 701.515 shall apply to appliances [and consumer electronics.

that have earned the energy star under the energy star program or] that **do not** have minimum energy efficiency standards required under federal law.

3. No person shall sell, offer for sale, or install any new product listed in subsection 2 of this section in the state unless the product meets the minimum energy efficiency standards under sections 701.500 to 701.515.

4. The provisions of sections 701.500 to 701.515 shall not apply to:

**(1) Consumer electronics; or**

**(2) Products:**

**[(1)] (a) Manufactured in the state and sold outside the state;**

**[(2)] (b) Manufactured outside the state and sold at wholesale inside the state for final retail sale outside the state;**

**[(3)] (c) Installed in mobile manufactured homes at the time of construction; or**

**[(4)] (d) Designed expressly for installation and use in recreational vehicles.**

**701.502. 1. The department shall conduct a study of the energy efficiency of consumer electronic products and report to the general assembly no later than July 1, 2010. The report shall include:**

**(1) An assessment of energy requirements and energy usage of consumer electronic products;**

**(2) Recommendations to consumers regarding appropriate use of consumer electronic products; and**

**(3) Recommendations to consumers regarding the availability of energy efficient consumer electronic products in Missouri.**

**2. The report shall be posted on the department's website and made available to the public upon request.**

701.503. 1. In conjunction with the advisory group under section 701.509, the director shall promulgate, by rule, the minimum energy efficiency standards for the products in subsection 2 of section 701.500. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

2. The standards enacted by the director, in conjunction with the advisory group under section 701.509, shall not be more stringent than the federal energy star program requirements [or], if [no] such requirements are applicable[, the minimum standard required by federal law].

701.506. In conjunction with the advisory group under section 701.509, the department shall update the minimum energy efficiency standards in section 701.503 not

less than once every three years beginning from the date the standards were first promulgated by rule. The purpose of any such update shall be to keep the state standards current with technological advancements and industry practices with regard to energy efficiency, while also giving due consideration to consumer and environmental costs and benefits. The department shall strive to have the standards achieve greater energy efficiency over time in a prudent and reasonable manner. Standards shall not be more stringent than required by the federal energy star program requirements [or], if [no] such requirements are applicable[, the minimum standard required by federal law].

**Section 1. 1. There is hereby established a joint committee of the general assembly, which shall be known as the "Joint Committee on Missouri's Energy Future", which shall be composed of five members of the senate, with no more than three members of one party, and five members of the house of representatives, with no more than three members of one party. The senate members of the committee shall be appointed by the president pro tem of the senate and the house members by the speaker of the house of representatives. The committee shall select either a chairperson or co-chairpersons, one of whom shall be a member of the senate and one a member of the house of representatives. A majority of the members shall constitute a quorum. Meetings of the committee may be called at such time and place as the chairperson or chairpersons designate.**

**2. The committee shall examine Missouri's present and future energy needs to determine the best strategy to ensure a plentiful, affordable and clean supply of electricity that will meet the needs of the people and businesses of Missouri for the next twenty-five years and ensure that Missourians continue to benefit from low rates for residential, commercial, and industrial energy consumers.**

**3. The joint committee may hold hearings as it deems advisable and may obtain any input or information necessary to fulfill its obligations. The committee may make reasonable requests for staff assistance from the research and appropriations staffs of the house and senate and the committee on legislative research, as well as the department of economic development, department of natural resources, and the public service commission.**

**4. The joint committee shall prepare a final report, together with its recommendations for any legislative action deemed necessary, for submission to the general assembly by December 31, 2009, at which time the joint committee shall be dissolved.**

**5. Members of the committee shall receive no compensation but may be reimbursed for reasonable and necessary expenses associated with the performance of their official duties.**

Section B. Because of the critical need for reliable and affordable energy, section 1 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section 1 of this act shall be in full force and effect upon its passage and approval.

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