

FIRST REGULAR SESSION

# HOUSE BILL NO. 840

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE PEARCE.

Read 1<sup>st</sup> time March 22, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2124L.011

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### AN ACT

To repeal section 490.733, RSMo, and to enact in lieu thereof one new section relating to evidence of hazardous materials.

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

Section A. Section 490.733, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 490.733, to read as follows:

490.733. 1. As used in this section, the term "hazardous materials" means any substance which is capable of posing an unreasonable risk to health, safety and property. It shall include any controlled substance or controlled substance analogue as defined in section 195.010, RSMo, or any substance which by its nature is explosive, flammable, corrosive, poisonous, radioactive, a biological hazard or a material which may cause spontaneous combustion. It shall include, but not be limited to, substances listed in the Table of Hazardous Materials contained in the Code of Federal Regulations-Title 49 and the National Fire Protection Association's Fire Protection Guide on Hazardous Materials.

2. Notwithstanding the provisions of section 575.100, RSMo, and with the approval of the affected court, any law enforcement officer who seizes hazardous materials as evidence related to a criminal investigation may collect representative samples of such hazardous materials, and destroy or dispose of, or direct another person to destroy or dispose of the remaining quantity of such hazardous materials.

3. In any prosecution, representative samples of hazardous materials accompanied by photographs, videotapes, laboratory analysis reports or other means used to verify and document the identity and quantity of the material shall be deemed competent evidence of such hazardous

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 materials and shall be admissible in any proceeding, hearing or trial as if such materials had been  
18 introduced as evidence. **However, in cases where the seizing officer reasonably believes such**  
19 **hazardous material cannot be collected in such a manner as to ensure the safety and well-**  
20 **being of the seizing officer, a representative sample shall not be necessary to prove the**  
21 **seizure of such material. In such cases, photographs or videotapes of the material taken**  
22 **at the crime scene, or any other means available to verify and document the identity and**  
23 **quantity of the material, shall be deemed competent evidence of such hazardous materials**  
24 **and shall be admissible in any proceeding, hearing, or trial as if such materials had been**  
25 **introduced as evidence. Nothing in this section shall be construed so as to require law**  
26 **enforcement agencies to store such hazardous materials in any secured evidence locker or**  
27 **storage area.**

28         4. In any prosecution for violation of chapter 195, RSMo, in which the weight or quantity  
29 of a controlled substance is an element of the offense, the weight or quantity of the controlled  
30 substance necessary to prove the element of the offense shall be held as evidence; except that,  
31 any amount of controlled substance in excess of that which is necessary to prove the offense may  
32 be destroyed at the direction of the seizing law enforcement officer. Photographs, videotapes and  
33 laboratory analysis reports shall be admissible in any proceeding, hearing or trial as if such  
34 excess amount of controlled substances had been introduced as evidence.