

FIRST REGULAR SESSION

# HOUSE BILL NO. 71

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES BAKER (25) (Sponsor) AND MEADOWS (Co-sponsor).

Pre-filed December 4, 2006 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

0088L.01I

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### AN ACT

To repeal section 260.750, RSMo, and to enact in lieu thereof two new sections relating to the transportation of radioactive waste, with an emergency clause.

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

Section A. Section 260.750, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 260.392 and 260.750, to read as follows:

**260.392. 1. As used in this section, the following terms mean:**

(1) "Cask", all the components and systems associated with the container in which spent fuel, high-level radioactive waste, highway route controlled quantity, or transuranic radioactive waste are stored;

(2) "Entity", the generator, owner or company responsible for shipment of the spent fuel, high-level radioactive waste, highway route controlled quantity shipments, transuranic radioactive waste, or low-level radioactive waste;

(3) "High-level radioactive waste", the highly radioactive material resulting from the reprocessing of spent nuclear fuel including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations, and other highly radioactive material that the Nuclear Regulatory Commission has determined to be high-level radioactive waste requiring permanent isolation;

(4) "Highway route controlled quantity", as defined in 49 CFR Part 173.403, as amended, a quantity of radioactive material within a single package;

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.

16 (5) "Low-level radioactive waste", any radioactive waste not classified as high-level  
17 radioactive waste, transuranic radioactive waste, or spent nuclear fuel, and classified as  
18 low-level radioactive waste by the U.S. Nuclear Regulatory Commission, consistent with  
19 existing law. Shipment of all sealed sources and all naturally occurring radioactive  
20 material given written approval for landfill disposal by the Missouri department of natural  
21 resources under 10 CSR 80-3.010 are exempt from the provisions of this section. Any low-  
22 level radioactive waste that has a radioactive half-life equal to or less than one hundred  
23 twenty days is exempt from the provisions of this section;

24 (6) "Spent nuclear fuel", fuel that has been withdrawn from a nuclear reactor  
25 following irradiation, the constituent elements of which have not been separated by  
26 reprocessing;

27 (7) "State-funded institutions of higher education", any campus of any university  
28 within the state of Missouri that receives state funding and has a nuclear research reactor;

29 (8) "Transuranic radioactive waste", defined in 40 CFR Part 191.02, as amended,  
30 as waste containing more than one hundred nanocuries of alpha-emitting transuranic  
31 isotopes with half-lives greater than twenty years, per gram of waste. For the purposes of  
32 this section, transuranic waste shall not include:

33 (a) High-level radioactive wastes;

34 (b) Any waste determined by the Environmental Protection Agency with the  
35 concurrence of the Environmental Protection Agency administrator, that does not need the  
36 degree of isolation required by this section; or

37 (c) Any waste that the Nuclear Regulatory Commission has approved for disposal  
38 on a case-by-case basis in accordance with 10 CFR Part 61, as amended.

39 2. Any entity that ships high-level radioactive waste, transuranic radioactive waste,  
40 highway route controlled quantity shipments, spent nuclear fuel, or low-level radioactive  
41 waste through or within the state shall be subject to the fees established in this subsection,  
42 provided that no state-funded institution of higher education that ships nuclear waste shall  
43 pay any such fee. These higher education institutions shall reimburse the Missouri state  
44 highway patrol directly for all costs related to transport escorts. The fees for all other  
45 shipments shall be:

46 (1) One thousand eight hundred dollars for each cask transported through or  
47 within the state by truck of high-level radioactive waste, transuranic radioactive waste,  
48 spent nuclear fuel or highway route controlled quantity shipments. All casks of high-level  
49 radioactive waste, transuranic radioactive waste, spent nuclear fuel or highway route  
50 controlled quantity shipments transported by truck are subject to a surcharge of twenty-  
51 five dollars per mile for every mile over two hundred miles traveled within the state;

52           **(2) One thousand three hundred dollars for the first cask and one hundred twenty-**  
53 **five dollars for each additional cask for each rail transport through or within the state of**  
54 **high-level radioactive waste, transuranic radioactive waste or spent nuclear fuel;**

55           **(3) One hundred twenty-five dollars for each truck or train transporting low-level**  
56 **radioactive waste through or within the state. The department of natural resources may**  
57 **accept an annual shipment fee as negotiated with a shipper or accept payment per**  
58 **transport or shipment.**

59           **3. All revenue generated from the fees established in subsection 2 of this section**  
60 **shall be deposited into the environmental radiation monitoring fund established in section**  
61 **260.750 and shall be used by the department of natural resources to achieve the following**  
62 **objectives and for purposes related to the transport or shipment of high-level radioactive**  
63 **waste, transuranic radioactive waste, highway route controlled quantity shipments, spent**  
64 **nuclear fuel, or low-level radioactive waste, including, but not limited to:**

65           **(1) Inspections, escorts, and security for waste shipment and planning;**

66           **(2) Coordination of emergency response capability;**

67           **(3) Education and training of state, county, and local emergency responders;**

68           **(4) Purchase and maintenance of necessary equipment and supplies for state,**  
69 **county, and local emergency responders through grants or other funding mechanisms;**

70           **(5) Emergency responses to any transportation incident involving the high-level**  
71 **radioactive waste, transuranic radioactive waste, highway route controlled quantity**  
72 **shipments, spent nuclear fuel, or low-level radioactive waste;**

73           **(6) Oversight of any environmental remediation necessary resulting from an**  
74 **incident involving a transport of high-level radioactive waste, transuranic radioactive**  
75 **waste, highway route controlled quantity shipments, spent nuclear fuel, or low-level**  
76 **radioactive waste. Reimbursement for oversight of any such incident shall not reduce or**  
77 **eliminate the liability of any party responsible for the incident; such party may be liable**  
78 **for full reimbursement to the state or payment of any other costs associated with the**  
79 **cleanup of contamination related to a transportation incident;**

80           **(7) Administrative costs attributable to the state agencies which are incurred**  
81 **through their involvement as it relates to the transport or shipping of high-level radioactive**  
82 **waste, transuranic radioactive waste, highway route controlled quantity shipments, spent**  
83 **nuclear fuel, or low-level radioactive waste through or within the state.**

84           **4. Nothing in this section shall preclude any other state agency from receiving**  
85 **reimbursement from the department of natural resources and the environmental radiation**  
86 **monitoring fund for services rendered that achieve the objectives and comply with the**  
87 **provisions of this section.**

88           **5. The department of natural resources in coordination with the department of**  
89 **health and senior services, and the department of public safety, may promulgate rules**  
90 **necessary to carry out the provisions of this section.**

91           **6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**  
92 **that is created under the authority delegated in this section shall become effective only if**  
93 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**  
94 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**  
95 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**  
96 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**  
97 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**  
98 **adopted after August 28, 2007, shall be invalid and void.**

99           **7. All funds deposited in the environmental radiation monitoring fund through fees**  
100 **established in subsection 2 of this section shall be utilized, subject to appropriation by the**  
101 **general assembly, for the administration and enforcement of this section by the department**  
102 **of natural resources. All interest earned by the monies in the fund shall accrue to the fund.**

103           **8. All fees shall be received by the department of natural resources prior to**  
104 **transport.**

105           **9. Notice of any transport of high-level radioactive waste, transuranic radioactive**  
106 **waste, highway route controlled quantity shipments, or spent nuclear fuel through or**  
107 **within the state shall be provided by the shipper to the governor's designee for advanced**  
108 **notification, as described in 10 CFR Parts 71 and 73, as amended, prior to such transport**  
109 **entering the state. Notice of any transport of low-level radioactive waste through or within**  
110 **the state shall be provided by the shipper to the Missouri department of natural resources**  
111 **before such transport enters the state.**

112           **10. Any shipper who fails to pay a fee assessed under this section, or fails to provide**  
113 **notice of a transport, shall be liable in a civil action for an amount not to exceed ten times**  
114 **the amount assessed and not paid. The action shall be brought by the attorney general at**  
115 **the request of the department of natural resources. If the action involves a facility**  
116 **domiciled in the state, the action shall be brought in the circuit court of the county in which**  
117 **the facility is located. If the action does not involve a facility domiciled in the state, the**  
118 **action shall be brought in the circuit court of Cole county.**

119           **11. Beginning on December 31, 2008, and every two years thereafter, the**  
120 **department of natural resources shall prepare and submit a report on activities of the**  
121 **environmental radiation monitoring fund to the general assembly. This report shall**  
122 **include information on fee income received and expenditures made by the state to enforce**  
123 **and administer the provisions of this section.**

124           **12. The provisions of this section shall not apply to high-level radioactive waste,**  
125 **transuranic radioactive waste, highway route controlled quantity shipments, spent nuclear**  
126 **fuel, or low-level radioactive waste shipped by or for the federal government for military**  
127 **or national defense purposes.**

128           **13. Under section 23.253, RSMo, of the Missouri Sunset Act:**

129           **(1) The provisions of the new program authorized under this section shall**  
130 **automatically sunset six years after the effective date of this section unless reauthorized by**  
131 **an act of the general assembly; and**

132           **(2) If such program is reauthorized, the program authorized under this section**  
133 **shall automatically sunset twelve years after the effective date of the reauthorization of this**  
134 **section; and**

135           **(3) This section shall terminate on September first of the calendar year immediately**  
136 **following the calendar year in which the program authorized under this section is sunset.**

260.750. 1. The department of natural resources shall develop an environmental  
2 radiation monitoring program for the purpose of monitoring radioactivity in air, water, soil, plant  
3 and animal life as necessary to insure the protection of the public health and safety of the  
4 environment from radiation hazards.

5           2. There is hereby created within the state treasury an "Environmental Radiation  
6 Monitoring Fund". In addition to general revenue, the department of natural resources is  
7 authorized to accept and shall deposit in said fund all gifts, bequests, donations, or other moneys,  
8 equipment, supplies, or services from any state, interstate or federal agency, or from any  
9 institution, person, firm, or corporation, public or private **as well as fees collected under**  
10 **subsection 2 of section 260.392.** This fund shall be used for the environmental radiation  
11 monitoring program established in this section **and to administer and enforce the provisions**  
12 **of section 260.392.**

Section B. Because immediate action is necessary to enable both the promulgation of  
2 rules pertaining to the implementation of this act and to preserve the state's environment, section  
3 A of this act is deemed necessary for the immediate preservation of the public health, welfare,  
4 peace and safety, and is hereby declared to be an emergency act within the meaning of the  
5 constitution, and section A of this act shall be in full force and effect upon its passage and  
6 approval.

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