

FIRST REGULAR SESSION

# HOUSE BILL NO. 127

95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE FLANIGAN.

0537L.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 643.151 and 644.076, RSMo, and to enact in lieu thereof two new sections relating to recycling companies that convert animal parts into petroleum, with penalty provisions.

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

Section A. Sections 643.151 and 644.076, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 643.151 and 644.076, to read as follows:

643.151. 1. It is unlawful for any person to cause or permit any air pollution by emission  
2 of any air contaminant from any air contaminant source located in Missouri, in violation of  
3 sections 643.010 to 643.190, or any rule promulgated by the commission.

4 2. No person who knows or should know of the existence of such rules may cause or  
5 permit any air pollution by emission of any air contaminant source located outside Missouri, and  
6 which emissions enter Missouri in excess of the emission control regulations applicable to the  
7 portion of Missouri where the air contaminant enters the state.

8 3. In the event the commission determines that any provision of sections 643.010 to  
9 643.190, or the rules promulgated hereunder, permits issued, or any final order or determination  
10 made by the commission or the director is being violated, the commission may cause to have  
11 instituted a civil action in any court of competent jurisdiction for injunctive relief to prevent any  
12 further violation or for the assessment of a penalty not to exceed ten thousand dollars for each  
13 violation per day for each day, or part thereof, the violation continues to occur, or both, as the  
14 court may deem proper. A civil monetary penalty under this section shall not be assessed for a  
15 violation where an administrative penalty was assessed under section 643.085. The commission  
16 may request the attorney general or other counsel to bring such action in the name of the people

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 of the state of Missouri. Process may be served in any manner provided by chapter 506, RSMo,  
18 including but not limited to sections 506.510 and 506.520, RSMo. Suit may be brought in any  
19 county where the defendant's principal place of business is located or where the air contaminant  
20 source is located or where the air contaminants enter the state of Missouri. Any offer of  
21 settlement to resolve a civil penalty under this section shall be in writing, shall state that an  
22 action for imposition of a civil penalty may be initiated by the attorney general or a prosecuting  
23 attorney representing the department under authority of this section, and shall identify any dollar  
24 amount as an offer of settlement which shall be negotiated in good faith through conference,  
25 conciliation and persuasion.

26 **4. Any recycling company that converts animal parts into petroleum that the**  
27 **commission or the director determines to be in persistent violation of the provisions of this**  
28 **section or any odor rule promulgated by the department shall forfeit any permits issued**  
29 **by the department under this chapter or chapter 644, RSMo, until such time that the**  
30 **recycling company that converts animal parts into petroleum successfully obtains a new**  
31 **permit. For the purposes of this subsection, the term "persistent violation" shall mean any**  
32 **recycling company that converts animal parts into petroleum that has been found by the**  
33 **commission or the director to have violated the provisions of this section at least six times**  
34 **during any twelve-month period or at least twelve times during any thirty-six-month**  
35 **period.**

36 **5. During any thirty-six-month period, any recycling company that converts animal**  
37 **parts into petroleum that the commission or director has found to have violated the**  
38 **provisions of this section on more than one occasion shall be subject to a penalty of not less**  
39 **than ten thousand dollars and not more than thirty thousand dollars for each violation per**  
40 **day for each day, or part thereof, the violation continues to occur, or both, as the court may**  
41 **deem proper.**

42 **6. Any member of the commission or employee thereof who is convicted of willful**  
43 **disclosure or conspiracy to disclose confidential information to any person other than one**  
44 **entitled to the information under sections 643.010 to 643.190 is guilty of a class A misdemeanor**  
45 **and upon conviction thereof shall be punished by a fine of not more than one thousand dollars.**

46 [5.] **7. No liability shall be imposed upon persons violating the provisions of sections**  
47 **643.010 to 643.190 or any rule hereunder due to any violation caused by an act of God, war,**  
48 **strike, riot or other catastrophe.**

644.076. 1. It is unlawful for any person to cause or permit any discharge of water  
2 contaminants from any water contaminant or point source located in Missouri in violation of  
3 sections 644.006 to 644.141, or any standard, rule or regulation promulgated by the commission.  
4 In the event the commission or the director determines that any provision of sections 644.006

5 to 644.141 or standard, rules, limitations or regulations promulgated pursuant thereto, or permits  
6 issued by, or any final abatement order, other order, or determination made by the commission  
7 or the director, or any filing requirement pursuant to sections 644.006 to 644.141 or any other  
8 provision which this state is required to enforce pursuant to any federal water pollution control  
9 act, is being, was, or is in imminent danger of being violated, the commission or director may  
10 cause to have instituted a civil action in any court of competent jurisdiction for the injunctive  
11 relief to prevent any such violation or further violation or for the assessment of a penalty not to  
12 exceed ten thousand dollars per day for each day, or part thereof, the violation occurred and  
13 continues to occur, or both, as the court deems proper. A civil monetary penalty pursuant to this  
14 section shall not be assessed for a violation where an administrative penalty was assessed  
15 pursuant to section 644.079. The commission, the chair of a watershed district's board of trustees  
16 created under section 249.1150, RSMo, or the director may request either the attorney general  
17 or a prosecuting attorney to bring any action authorized in this section in the name of the people  
18 of the state of Missouri. Suit may be brought in any county where the defendant's principal place  
19 of business is located or where the water contaminant or point source is located or was located  
20 at the time the violation occurred. Any offer of settlement to resolve a civil penalty pursuant to  
21 this section shall be in writing, shall state that an action for imposition of a civil penalty may be  
22 initiated by the attorney general or a prosecuting attorney representing the department pursuant  
23 to this section, and shall identify any dollar amount as an offer of settlement which shall be  
24 negotiated in good faith through conference, conciliation and persuasion.

25       **2. Any recycling company that converts animal parts into petroleum that the**  
26 **commission or the director determines to be in persistent violation of the provisions of this**  
27 **section shall forfeit any permits issued by the department under this chapter or chapter**  
28 **643, RSMo, until such time that the recycling company that converts animal parts into**  
29 **petroleum successfully obtains a new permit. For the purposes of this subsection, the term**  
30 **"persistent violation" shall mean any recycling company that converts animal parts into**  
31 **petroleum that the commission or the director has found to have violated the provisions**  
32 **of this section at least six times during any twelve-month period or at least twelve times**  
33 **during any thirty-six-month period.**

34       **3. During any thirty-six-month period, any recycling company that converts animal**  
35 **parts into petroleum that the commission or director has found to have violated the**  
36 **provisions of this section on more than one occasion shall be subject to a penalty of not less**  
37 **than ten thousand dollars and not more than thirty thousand dollars for each violation per**  
38 **day for each day, or part thereof, the violation continues to occur, or both, as the court may**  
39 **deem proper.**

40           **4.** Any person who knowingly makes any false statement, representation or certification  
41 in any application, record, report, plan, or other document filed or required to be maintained  
42 pursuant to sections 644.006 to 644.141 or who falsifies, tampers with, or knowingly renders  
43 inaccurate any monitoring device or method required to be maintained pursuant to sections  
44 644.006 to 644.141 shall, upon conviction, be punished by a fine of not more than ten thousand  
45 dollars, or by imprisonment for not more than six months, or by both.

46           **[3.] 5.** Any person who willfully or negligently commits any violation set forth pursuant  
47 to subsection 1 of this section shall, upon conviction, be punished by a fine of not less than two  
48 thousand five hundred dollars nor more than twenty-five thousand dollars per day of violation,  
49 or by imprisonment for not more than one year, or both. Second and successive convictions for  
50 violation of the same provision of this section by any person shall be punished by a fine of not  
51 more than fifty thousand dollars per day of violation, or by imprisonment for not more than two  
52 years, or both.

53           **[4.] 6.** The liabilities which shall be imposed pursuant to any provision of sections  
54 644.006 to 644.141 upon persons violating the provisions of sections 644.006 to 644.141 or any  
55 standard, rule, limitation, or regulation adopted pursuant thereto shall not be imposed due to any  
56 violation caused by an act of God, war, strike, riot, or other catastrophe

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