

SS HCS HB 1647 -- PUBLIC SAFETY

This bill changes the laws regarding public safety.

TANEY COUNTY EMERGENCY SERVICES BOARD (Section 190.335, RSMo)

The Taney County Commission, upon voter approval of a county sales tax for central dispatching of emergency services, must appoint a seven-member board to administer the funds and oversee the provision of emergency services.

The board must include the heads or a designee of the county's fire protection district and the county's ambulance district, the sheriff or a designee, the head or a designee of any police department in the county, and the head or a designee of the county's emergency management organizations.

STATE OIL AND GAS COUNCIL (Sections 259.010 - 259.070)

The bill changes the composition of the State Oil and Gas Council by adding a representative of the Missouri Independent Oil and Gas Association; specifying that the University of Missouri member must be the Professor of Petroleum Engineering from the Missouri University of Science and Technology; and adding two public members, one of whom must reside in a third or fourth classification county. The public members are to be appointed by the Governor with the advice and consent of the Senate. The council must meet at least once each quarter of the year; biennially review the state laws, rules, and regulations on oil and gas drilling; make any recommendations for necessary changes to the statutes; and amend the rules and regulations accordingly. The council may form an advisory committee to help it conduct the law review and make recommendations on appropriate fees or other funding mechanisms to support the oil and gas program efforts of the Division of Geology and Land Survey in the Department of Natural Resources.

HAZARDOUS WASTE RULES (Section 260.373)

The bill authorizes the Hazardous Waste Commission to establish standards and guidelines through rules and regulations to ensure Missouri is in compliance with the federal Resource Conservation and Recovery Act (RCRA). The guidelines and standards cannot be any stricter than those required under RCRA nor can the commission enforce any provisions prior to the time required by the act with specified exceptions.

By December 31, 2013, the Department of Natural Resources must identify rules in Title 10, Division 25 of the Code of State Regulations that establish standards or guidelines that are

inconsistent with the RCRA and file amendments with the Secretary of State to eliminate them. On December 31, 2015, any rule in Title 10, Division 25 that establishes standards that are inconsistent with the RCRA will be null and void to the extent it is inconsistent. The department is prohibited from selectively excluding any rule or part of a rule promulgated by the commission from any authorization application package or program revision submitted to the United States Environmental Protection Agency.

TRANSPORTATION OF RADIOACTIVE WASTE (Section 260.392)

The method by which fees for transporting radioactive waste by truck are assessed is revised. Currently, a fee of \$1,800 is charged for each cask transported through or within the state by truck of high-level radioactive waste, transuranic radioactive waste, spent nuclear fuel, or highway route controlled quantity shipments, and all casks are subject to a surcharge of \$25 per mile for every mile over 200 miles traveled within the state. The bill assesses the fee and surcharge based on each truck rather than on each cask.

COLLECTION OF HAZARDOUS MATERIALS FEES (Section 292.606)

Currently, the collection of fees for hazardous waste in the workplace that fund the Missouri Emergency Response Commission is authorized until August 28, 2012. The bill extends the authorization until August 28, 2018.

Beginning January 1, 2013, any employer required to report information regarding the properties and nature of the hazardous substances that he or she stores, uses, or produces to the local fire protection service, the Department of Public Safety, and the local emergency planning committee, known as Tier II filers, may request the commission to distribute the report to the local emergency planning committees and fire departments by paying an additional \$10 fee for each facility listed. The fee is to be deposited into the Chemical Emergency Preparedness Fund and cannot be applied to the employer's fee cap.

MEDICAL NEEDLES (Section 292.655)

An employer using medical needles in the routine course of business may use any commercially available engineered injury protection device to reduce the risk of accidental needlestick injuries to employees, patients, or customers. An engineered injury protection device destroys a medical needle's sharp point at the point of the procedure or use or covers the sharp end of the needle at the time the needle is removed from the skin. It does not include recapping a needle with the original needle

packaging cover. These provisions will not apply to needles for sewing dead skins, fish hooks, or other sharp objects related to animals or to veterinary care provided outside of a veterinary office.

RECREATIONAL OFF-HIGHWAY VEHICLES (Sections 301.010 and 304.033)

The bill:

(1) Revises the definition of "recreational off-highway vehicle" by increasing the maximum width of a recreational off-highway vehicle from 60 inches to 64 inches and the maximum unladen dry weight of a vehicle from 1,850 pounds to 2,000 pounds;

(2) Allows the following recreational off-highway vehicles to be operated upon the highways of this state:

(a) Vehicles owned and operated by a governmental entity for official use;

(b) Vehicles operated for agricultural purposes or industrial on-premises purposes;

(c) Vehicles operated within three miles of the operator's primary residence. This provision does not authorize the operation in a municipality unless it is authorized by the municipality;

(d) Vehicles operated occasionally by handicapped persons for short distances only on the state's secondary roads; and

(e) Vehicles issued a special permit by the governing body of a city or a county to a licensed driver for special use of the vehicle on highways within the city or county limits. A \$15 fee may be collected and retained by the city or county for the permit;

(3) Prohibits a person from operating a recreational off-highway vehicle within any stream or river with the exception of an operator who owns the property, has permission to be on the property through which the waterway flows, or is fording it at a road crossing; and

(4) Requires a person operating a recreational off-highway vehicle on a highway under these provisions to have a valid operator's or chauffeur's license with certain specified exceptions, to display a lighted headlamp and a lighted tail lamp, and to wear a seat belt and the vehicle to be equipped with a roll bar or roll cage construction to reduce the risk of injury to an occupant of the vehicle in case of the vehicle's rollover.

REGULATION OF FIREWORKS (Sections 320.106 - 320.136)

The bill changes the references to fireworks classifications by referencing the Code of Federal Regulations when defining consumer fireworks, display fireworks, fireworks, and proximate fireworks and removing the reference to American Pyrotechnics Association standards. The bill specifies that ground salutes, commonly known as cherry bombs, M-80's, M-100's, and M-1,000's, that exceed the limits set for consumer fireworks, display fireworks, or proximate fireworks for explosive composition are prohibited in Missouri for consumer use. These provisions do not prohibit a manufacturer, distributor, or any other person possessing the proper permits as specified by state and federal law from storing, selling, shipping, or otherwise transporting fireworks.

RESIDENTIAL CONSTRUCTION REGULATORY SYSTEMS (Section 321.228)

The bill specifies that if any city, town, village, or county adopts or has adopted, implements, and enforces a residential construction regulatory system applicable to residential construction within its jurisdiction, any fire protection district wholly or partially located therein is prohibited from enforcing or implementing a residential construction regulatory system. Any regulatory system adopted by a fire protection district or its board must be treated as advisory only and cannot be enforced. A fire protection district will have final regulatory authority regarding the location and specifications of fire hydrants, fire hydrant flow rates, and fire lanes and can inspect residential dwellings but cannot charge a fee for the services.

FIRE PROTECTION DISTRICT CONSOLIDATION (Section 321.460)

Currently, two or more fire protection districts may consolidate with each other only if the districts have one or more common boundaries, in whole or in part. The bill also allows two or more districts to consolidate if they are located within the same county, in whole or in part.

MISSOURI PROPANE EDUCATION AND RESEARCH COUNCIL (Sections 414.530 - 414.570)

Currently, there are three options that require a referendum to be held to abolish the Missouri Propane Education and Research Council and the fee for odorized propane. The bill removes the option of the Director of the Division of Energy within the Department of Natural Resources to do so on his or her own initiative.

Currently, a vacancy on the council is allowed to be filled by the remaining members of the council, subject to the approval of the division director. The bill removes the requirement that the division director approve the appointment and requires the council to fill vacancies after a public nomination process but allows the division director to reject any appointment.

Currently, the council must submit a budget plan to the division director at the beginning of each fiscal period, and the division director must approve or recommend changes to the budget after a public comment period. The bill requires the budget plan to be submitted for public comment at least 30 days prior to the beginning of each fiscal period and requires the council to approve or modify the budget after the public comment period but allows the division director to reject the council's budget or modifications.

The bill removes the authority of the division director to require additional reports from the council at his or her discretion beyond what is already required under current law.

The authority to establish an alternative means to collect the odorized propane fee and set late payment charges is currently given to the division director. The bill transfers this authority to the council. The interest rate charged for late payments may not exceed the legal rate for judgments.

The bill removes the provisions that allow the National Propane Education and Research Council to coordinate its operations with Missouri's council and that authorize Missouri's council to keep funds from a federal rebate on propane fees collected by the national council.

EXPUNGEMENT OF CERTAIN CRIMINAL RECORDS (Sections 488.650, 561.026, and 610.140)

A person is allowed to apply for the expungement of certain criminal records after 10 years have elapsed for a specified misdemeanor and 20 years have elapsed for a specified felony since the person has completed his or her imprisonment or any period of probation or parole if he or she has not been found guilty of any misdemeanor or felony, except specified traffic violations, during that time and has paid any amount of restitution ordered by the court, the circumstances and behavior of the petitioner warrant the expungement, and the expungement is consistent with the public welfare.

Any person may apply to any court in which he or she was found guilty of any felony or misdemeanor offense of passing a bad check under Section 570.120, fraudulently stopping payment of an

instrument under Section 570.125, or fraudulently using a credit or debit device under Section 570.130; any misdemeanor offense of negligent burning or exploding under Section 569.065, negligently setting a fire under Section 569.067, second degree tampering under Section 569.090, second degree property damage under Section 569.120, trespass in the first degree under Sections 569.140 and 569.145, gambling under Section 572.020, or drunkenness or intoxication under Section 574.075; or any class B or C misdemeanor offense of peace disturbance under Section 574.010 for an order to expunge the records of the arrest, plea, trial, or conviction. A person may apply to have one or more eligible offenses expunged if all the offenses are listed on the petition. The petition must name as defendants all law enforcement agencies, courts, prosecuting or circuit attorneys, central state repositories of criminal records, or others whom the petitioner has reason to believe may possess the records subject to expungement.

If the court enters an order of expungement, a copy of the order must be provided to each entity named in the petition, and each entity must destroy any record in its possession relating to any offense listed upon receipt of the order. Once expunged, the court records and files will be confidential and only available to the parties or by order of the court for good cause shown. The expungement also restores all rights to the person as if the crime had never occurred. The central repository must request the Federal Bureau of Investigation to expunge the records from its files. However, a person granted an expungement must disclose any expunged offense when the disclosure is necessary to complete certain applications for professional licenses, certificates, or permits issued by the state; any license issued by the Missouri Gaming Commission; or paid or unpaid employment with an entity licensed by the commission, any state-operated lottery, or any emergency services provider, including any law enforcement agency.

A person may be granted more than one expungement but may be granted only one expungement from the same court.

The clerk of the court is required to assess a \$100 surcharge on all petitions for expungement. Moneys collected are payable to the General Revenue Fund.

INMATE SECURITY FUND (Section 488.5026)

The bill changes the name of the Inmate Security Fund to the Inmate Prisoner Detainee Security Fund and requires moneys in the fund to be used to acquire and develop biometric verification systems and information sharing to ensure that inmates, prisoners, or detainees in a holding cell facility or other

detention facility or area that holds persons detained only for a shorter period of time after arrest or after being formally charged can be properly identified upon booking and tracked within the local law enforcement administration system, criminal justice administration system, or the local jail system. Currently, the moneys are to be used to ensure that inmates can be properly identified and tracked within the local jail system.

ASSAULTING A UTILITY OR CABLE WORKER (Sections 565.081 - 565.083)

The crime of assault of a law enforcement officer, corrections officer, emergency personnel, highway worker in a construction or work zone, or probation and parole officer in the first, second, or third degree is revised to include a utility worker and a cable worker. "Utility worker" means any employee while in performance of his or her job duties, including any person employed under contract, of a utility that provides gas, heat, electricity, water, steam, telecommunications services, or sewer services, whether privately, municipally, or cooperatively owned. "Cable worker" means any employee, including any person employed under contract, of a cable operator.

WEAPONS (Section 571.020)

Currently, a person commits a class A misdemeanor if he or she possesses, manufactures, transports, repairs, or sells a switchblade knife. The bill limits the prohibition to when the activity involving a switchblade knife violates federal law and makes the crime a class C felony.

CONCEALED CARRY ENDORSEMENTS (Sections 571.030, 571.037, 571.101, 571.111, and 571.117)

The bill lowers the age at which a person can obtain a concealed carry endorsement from 21 to 18 years if the person is a member of the United States Armed Forces or is honorably discharged from the United States Armed Forces and is a citizen of the United States and has assumed residency, is stationed in Missouri, or is the spouse of the member stationed in Missouri and is 21 years of age.

Any person who has a valid concealed carry endorsement and is lawfully carrying a firearm in a concealed manner may briefly and openly display the firearm to the ordinary sight of another person, unless the firearm is intentionally displayed in an angry or threatening manner, not in necessary self-defense.

A person can receive a concealed carry endorsement without meeting the current requirements if he or she submits a copy of a certificate of firearms safety training course completion that

was issued on or before August 27, 2011, if the certificate met the requirements that were in effect on the date it was issued.

FIREARMS DISQUALIFICATIONS (Section 571.092)

An individual over 18 years of age who has been adjudicated incapacitated under Chapter 475, has been involuntarily committed under Chapter 632, or has had a Missouri adjudication or commitment that results in a firearms disqualification pursuant to 18 U.S.C. Section 922(d)(4) or (g)(4) is allowed to file a petition for the removal of the disqualification to ship, transport, receive, purchase, possess, or transfer a firearm. The procedure for filing the petition and the rules of evidence are specified in the bill. The bill repeals current provisions in Section 475.375 regarding these petitions.

The circuit court must grant a removal of the disqualification if there is a finding by clear and convincing evidence that the petitioner will not be likely to act in a manner dangerous to public safety and that granting the removal is not contrary to the public interest. If a petition is granted, the county clerk must forward the order to the State Highway Patrol so the patrol can contact the Federal Bureau of Investigation for updating the petitioner's record with the National Instant Criminal Background Check System within 21 days of the receipt of the order. If a petition is denied, the individual may appeal, and the review of a circuit court ruling will be de novo.

PRESSURE VESSELS (Section 650.230)

Currently, certain sized pressure vessels are exempt from state regulation. The bill revises the exemptions.

ANEMOMETER TOWERS (Section 701.550)

The bill requires an anemometer tower, which is a wind speed testing tower, that is located outside of a municipality's boundaries, is 50 feet or more in height, and whose appearance is not otherwise mandated by state or federal law to have certain safety markings. The top third of the tower must be painted in equal, alternating bands of aviation orange and white, each outside guy wire must have two attached marker balls, the vegetation around guy wire anchor points must contrast with surrounding vegetation, and guy wires must have safety sleeves. If the adjacent land is grazed, the area surrounding the anchor point must be fenced. An owner of an anemometer tower in existence as of August 28, 2012, is given until January 1, 2014, to comply with these requirements. A violation of these provisions is a class B misdemeanor.

MEDICAL NEEDLES (Section 1)

The bill specifies that an employer who uses medical needles in the routine course of conducting business in the state may use any federal Occupational Safety and Health Administration- or Food and Drug Administration-approved device.

The provisions of the bill regarding the regulation of fireworks and the provisions regarding receiving a concealed carry endorsement if a person passed the training course requirements on or before January 27, 2011, contain an emergency clause.