

HCS HB 1567 & 1602 -- GRAVEL REMOVAL AND MINING REGULATIONS

SPONSOR: Townley

COMMITTEE ACTION: Voted "do pass" by the Committee on Conservation and Natural Resources by a vote of 17 to 1.

This substitute defines "noncommercial operator" as it relates to the removal of seasonal gravel accretion on privately owned land not primarily used for surface mining. Noncommercial operators or operators performing work at the request of a property owner can remove seasonal gravel if the mining is conducted in accordance with guidelines established by the Department of Natural Resources. An operator or owner can sell or barter the extracted materials.

The substitute changes the laws regarding the Land Reclamation Act. The substitute:

(1) Clarifies that the act does not regulate the excavation of minerals or fill dirt from construction sites;

(2) Defines the terms "commercial purpose," "construction," "excavation," "fill dirt," "land improvement," "mining," "public entity," "quarry," and "surface mining";

(3) Specifies that the Land Reclamation Commission within the department has no authority to regulate the excavation of minerals or fill dirt for construction;

(4) Utilizes the powers authorized by the substitute to promote the reclamation of land subjected to disturbance by surface mining and to promote and protect the health, safety, and general welfare of the people of this state in relation to surface mining;

(5) Specifies that no one will be required to obtain a permit for the purpose of moving minerals or fill dirt within the confines of real property where excavation occurs or to remove minerals or fill dirt from the real property as incidental to the primary purpose of construction;

(6) Authorizes the commission to determine whether an activity on real property constitutes surface mining that requires a permit. If a permit is required, the owner of the property will be notified by a letter stating the reasons for the determination. If the staff director of the commission and the owner disagree with the findings, the owner can request a hearing before the commission at its next regular meeting; and a written determination will be issued within 30 calendar days. The

determination can be appealed with the burden of proof on the director and the commission; and

(7) Allows additional penalties to be levied at the discretion of the court for up to double the cumulative total of penalties authorized for a violation of operation without a permit which constitutes fraud and the court imposes civil penalties for the violation.

FISCAL NOTE: Not available at time of printing.

PROPOSERS: Supporters of HB 1567 say that the bill will help keep erosion down by keeping the rivers flowing in their channels and help restore fishing in Missouri streams. Gravel accretion lowers the water volume and removes fish habitat.

Supporters of HB 1602 say that the bill will clarify definitions regarding excavation of minerals or fill dirt for the purpose of construction by making it clear that this does not pertain to mining. Contractors will not be required to have a mining permit which slows down the construction process and makes it too costly to build.

Testifying for HB 1567 were Representatives Townley and Kuessner; Ray Cunio; Missouri Farm Bureau; and Robert McQuerry. Testifying for HB 1602 were Representative St. Onge; Association of General Contractors of Missouri; Twehous Excavation Company Incorporated; Missouri Limestone Producers Association; and Land Reclamation Commission.

OPPOSERS: Those who oppose HB 1567 say that all gravel operations need to be permitted so the Department of Natural Resources can track what happens to the river and study the consequences. Removal of gravel in rivers can affect aquatic life and put excessive silt in the river. Currently, landowners can remove gravel from rivers that run through their land for their own personal use.

Testifying against HB 1567 were Missouri Chapter of the American Fisheries Society; Department of Natural Resources; Sierra Club; and Ozark Fly Fishers.

Marc Webb, Legislative Analyst