

SECOND REGULAR SESSION

# HOUSE BILL NO. 1727

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE SOMMER.

5363H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 260.200 and 260.243, RSMo, and to enact in lieu thereof two new sections relating to solid waste management.

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

Section A. Sections 260.200 and 260.243, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 260.200 and 260.243, to read as follows:

260.200. 1. The following words and phrases when used in sections 260.200 to 260.345 shall mean:

(1) "Alkaline-manganese battery" or "alkaline battery", a battery having a manganese dioxide positive electrode, a zinc negative electrode, an alkaline electrolyte, including alkaline-manganese button cell batteries intended for use in watches, calculators, and other electronic products, and larger-sized alkaline-manganese batteries in general household use;

(2) "Applicant", a person or persons seeking or holding a facility permit;

(3) "Bioreactor", a municipal solid waste disposal area or portion of a municipal solid waste disposal area where the controlled addition of liquid waste or water accelerates both the decomposition of waste and landfill gas generation;

(4) "Button cell battery" or "button cell", any small alkaline-manganese or mercuric-oxide battery having the size and shape of a button;

(5) "City", any incorporated city, town, or village;

(6) "Clean fill", uncontaminated soil, rock, sand, gravel, concrete, asphaltic concrete, cinderblocks, brick, minimal amounts of wood and metal, and inert solids as approved by rule or policy of the department for fill, reclamation or other beneficial use;

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 (7) "Closure", the permanent cessation of active disposal operations, abandonment of  
18 the disposal area, revocation of the permit or filling with waste of all areas and volumes specified  
19 in the permit and preparing the area for long-term care;

20 (8) "Closure plan", plans, designs and relevant data which specify the methods and  
21 schedule by which the operator will complete or cease disposal operations, prepare the area for  
22 long-term care, and make the area suitable for other uses, to achieve the purposes of sections  
23 260.200 to 260.345 and the regulations promulgated thereunder;

24 (9) "Conference, conciliation and persuasion", a process of verbal or written  
25 communications consisting of meetings, reports, correspondence or telephone conferences  
26 between authorized representatives of the department and the alleged violator. The process shall,  
27 at a minimum, consist of one offer to meet with the alleged violator tendered by the department.  
28 During any such meeting, the department and the alleged violator shall negotiate in good faith  
29 to eliminate the alleged violation and shall attempt to agree upon a plan to achieve compliance;

30 (10) "Construction and demolition waste", waste materials from the construction and  
31 demolition of residential, industrial, or commercial structures, but shall not include materials  
32 defined as clean fill under this section;

33 (11) "Demolition landfill", a solid waste disposal area used for the controlled disposal  
34 of demolition wastes, construction materials, brush, wood wastes, soil, rock, concrete and inert  
35 solids insoluble in water;

36 (12) "Department", the department of natural resources;

37 (13) "Director", the director of the department of natural resources;

38 (14) "Disclosure statement", a sworn statement or affirmation, in such form as may be  
39 required by the director of the department of natural resources, which includes:

40 (a) The full names and business address of key personnel;

41 (b) The full name and business address of any entity, other than a natural person, that  
42 collects, transfers, processes, treats, stores, or disposes of solid waste in which all key personnel  
43 holds an equity interest of seven percent or more;

44 (c) A description of the business experience of all key personnel listed in the disclosure  
45 statement;

46 (d) For the five-year period ending on the date the sworn disclosure statement or  
47 affirmation is signed by key personnel:

48 a. A listing organized by issuing federal, state, or county or county-equivalent regulatory  
49 body of all environmental permits or licenses for the collection, transfer, treatment, processing,  
50 storage, or disposal of solid waste issued to or held by any key personnel;

51           b. A listing and explanation of notices of violation which shall by rule be defined,  
52 prosecutions, or other administrative enforcement actions resulting in an adjudication or  
53 conviction;

54           c. A listing of license or permit suspensions, revocations, or denials issued by any state,  
55 the federal government or a county or county equivalent, which are pending or have concluded  
56 with a finding of violation or entry of a consent agreement regarding an allegation of civil or  
57 criminal violation of law, regulation or requirement relating to the collection, transfer, treatment,  
58 processing, storage, or disposal of solid waste or violation of the environmental statutes of other  
59 states or federal statutes;

60           d. An itemized list of all felony convictions under the laws of the state of Missouri or  
61 the equivalent thereof under the laws of any other jurisdiction; and a listing of any findings of  
62 guilt for any crimes or criminal acts an element of which involves restraint of trade, price-fixing,  
63 intimidation of the customers of another person or for engaging in any other acts which may have  
64 the effect of restraining or limiting competition concerning activities regulated pursuant to this  
65 chapter or similar laws of other states or the federal government including, but not limited to,  
66 racketeering or violation of antitrust laws of any key personnel;

67           (15) "District", a solid waste management district established under section 260.305;

68           (16) "Financial assurance instrument", an instrument or instruments, including, but not  
69 limited to, cash or surety bond, letters of credit, corporate guarantee or secured trust fund,  
70 submitted by the applicant to ensure proper closure and postclosure care and corrective action  
71 of a solid waste disposal area in the event that the operator fails to correctly perform closure and  
72 postclosure care and corrective action requirements, except that the financial test for the  
73 corporate guarantee shall not exceed one and one-half times the estimated cost of closure and  
74 postclosure. The form and content of the financial assurance instrument shall meet or exceed  
75 the requirements of the department. The instrument shall be reviewed and approved or  
76 disapproved by the attorney general;

77           (17) "Flood area", any area inundated by the [~~one hundred-year~~] **five-hundred-year**  
78 flood event, or the flood event with a **one-fifth of** one percent chance of occurring in any given  
79 year;

80           (18) "Household consumer", an individual who generates used motor oil through the  
81 maintenance of the individual's personal motor vehicle, vessel, airplane, or other machinery  
82 powered by an internal combustion engine;

83           (19) "Household consumer used motor oil collection center", any site or facility that  
84 accepts or aggregates and stores used motor oil collected only from household consumers or  
85 farmers who generate an average of twenty-five gallons per month or less of used motor oil in

86 a calendar year. This section shall not preclude a commercial generator from operating a  
87 household consumer used motor oil collection center;

88 (20) "Household consumer used motor oil collection system", any used motor oil  
89 collection center at publicly owned facilities or private locations, any curbside collection of  
90 household consumer used motor oil, or any other household consumer used motor oil collection  
91 program determined by the department to further the purposes of sections 260.200 to 260.345;

92 (21) "Infectious waste", waste in quantities and characteristics as determined by the  
93 department by rule, including isolation wastes, cultures and stocks of etiologic agents, blood and  
94 blood products, pathological wastes, other wastes from surgery and autopsy, contaminated  
95 laboratory wastes, sharps, dialysis unit wastes, discarded biologicals known or suspected to be  
96 infectious; provided, however, that infectious waste does not mean waste treated to department  
97 specifications;

98 (22) "Key personnel", the applicant itself and any person employed by the applicant in  
99 a managerial capacity, or empowered to make discretionary decisions with respect to the solid  
100 waste operations of the applicant in Missouri, but shall not include employees exclusively  
101 engaged in the physical or mechanical collection, transfer, transportation, treatment, processing,  
102 storage, or disposal of solid waste and such other employees as the director of the department  
103 of natural resources may designate by regulation. If the applicant has not previously conducted  
104 solid waste operations in Missouri, the term also includes any officer, director, partner of the  
105 applicant, or any holder of seven percent or more of the equity or debt of the applicant. If any  
106 holder of seven percent or more of the equity or debt of the applicant or of any key personnel is  
107 not a natural person, the term includes all key personnel of that entity, provided that where such  
108 entity is a chartered lending institution or a reporting company under the federal Securities  
109 Exchange Act of 1934, the term does not include key personnel of such entity. Provided further  
110 that the term means the chief executive officer of any agency of the United States or of any  
111 agency or political subdivision of the state of Missouri, and all key personnel of any person, other  
112 than a natural person, that operates a landfill or other facility for the collection, transfer,  
113 treatment, processing, storage, or disposal of nonhazardous solid waste under contract with or  
114 for one of those governmental entities;

115 (23) "Lead-acid battery", a battery designed to contain lead and sulfuric acid with a  
116 nominal voltage of at least six volts and of the type intended for use in motor vehicles and  
117 watercraft;

118 (24) "Major appliance", clothes washers and dryers, water heaters, trash compactors,  
119 dishwashers, conventional ovens, ranges, stoves, woodstoves, air conditioners, refrigerators and  
120 freezers;

121 (25) "Mercuric-oxide battery" or "mercury battery", a battery having a mercuric-oxide  
122 positive electrode, a zinc negative electrode, and an alkaline electrolyte, including  
123 mercuric-oxide button cell batteries generally intended for use in hearing aids and larger size  
124 mercuric-oxide batteries used primarily in medical equipment;

125 (26) "Minor violation", a violation which possesses a small potential to harm the  
126 environment or human health or cause pollution, was not knowingly committed, and is not  
127 defined by the United States Environmental Protection Agency as other than minor;

128 (27) "Motor oil", any oil intended for use in a motor vehicle, as defined in section  
129 301.010, train, vessel, airplane, heavy equipment, or other machinery powered by an internal  
130 combustion engine;

131 (28) "Motor vehicle", as defined in section 301.010;

132 (29) "Operator" and "permittee", anyone so designated, and shall include cities, counties,  
133 other political subdivisions, authority, state agency or institution, or federal agency or institution;

134 (30) "Permit modification", any permit issued by the department which alters or modifies  
135 the provisions of an existing permit previously issued by the department;

136 (31) "Person", any individual, partnership, limited liability company, corporation,  
137 association, trust, institution, city, county, other political subdivision, authority, state agency or  
138 institution, or federal agency or institution, or any other legal entity;

139 (32) "Plasma arc technology", a process that converts electrical energy into thermal  
140 energy. This electric arc is created when an ionized gas transfers electric power between two or  
141 more electrodes;

142 (33) "Postclosure plan", plans, designs and relevant data which specify the methods and  
143 schedule by which the operator shall perform necessary monitoring and care for the area after  
144 closure to achieve the purposes of sections 260.200 to 260.345 and the regulations promulgated  
145 thereunder;

146 (34) "Recovered materials", those materials which have been diverted or removed from  
147 the solid waste stream for sale, use, reuse or recycling, whether or not they require subsequent  
148 separation and processing;

149 (35) "Recycled content", the proportion of fiber in a newspaper which is derived from  
150 postconsumer waste;

151 (36) "Recycling", the separation and reuse of materials which might otherwise be  
152 disposed of as solid waste;

153 (37) "Resource recovery", a process by which recyclable and recoverable material is  
154 removed from the waste stream to the greatest extent possible, as determined by the department  
155 and pursuant to department standards, for reuse or remanufacture;

156 (38) "Resource recovery facility", a facility in which recyclable and recoverable material  
157 is removed from the waste stream to the greatest extent possible, as determined by the  
158 department and pursuant to department standards, for reuse or remanufacture;

159 (39) "Sanitary landfill", a solid waste disposal area which accepts commercial and  
160 residential solid waste;

161 (40) "Scrap tire", a tire that is no longer suitable for its original intended purpose because  
162 of wear, damage, or defect;

163 (41) "Scrap tire collection center", a site where scrap tires are collected prior to being  
164 offered for recycling or processing and where fewer than five hundred tires are kept on site on  
165 any given day;

166 (42) "Scrap tire end-user facility", a site where scrap tires are used as a fuel or fuel  
167 supplement or converted into a usable product. Baled or compressed tires used in structures, or  
168 used at recreational facilities, or used for flood or erosion control shall be considered an end use;

169 (43) "Scrap tire generator", a person who sells tires at retail or any other person, firm,  
170 corporation, or government entity that generates scrap tires;

171 (44) "Scrap tire processing facility", a site where tires are reduced in volume by  
172 shredding, cutting, or chipping or otherwise altered to facilitate recycling, resource recovery, or  
173 disposal;

174 (45) "Scrap tire site", a site at which five hundred or more scrap tires are accumulated,  
175 but not including a site owned or operated by a scrap tire end-user that burns scrap tires for the  
176 generation of energy or converts scrap tires to a useful product;

177 (46) "Solid waste", garbage, refuse and other discarded materials including, but not  
178 limited to, solid and semisolid waste materials resulting from industrial, commercial,  
179 agricultural, governmental and domestic activities, but does not include hazardous waste as  
180 defined in sections 260.360 to 260.432, recovered materials, overburden, rock, tailings, matte,  
181 slag or other waste material resulting from mining, milling or smelting;

182 (47) "Solid waste disposal area", any area used for the disposal of solid waste from more  
183 than one residential premises, or one or more commercial, industrial, manufacturing,  
184 recreational, or governmental operations;

185 (48) "Solid waste fee", a fee imposed pursuant to sections 260.200 to 260.345 and may  
186 be:

187 (a) A solid waste collection fee imposed at the point of waste collection; or

188 (b) A solid waste disposal fee imposed at the disposal site;

189 (49) "Solid waste management area", a solid waste disposal area which also includes one  
190 or more of the functions contained in the definitions of recycling, resource recovery facility,

191 waste tire collection center, waste tire processing facility, waste tire site or solid waste processing  
192 facility, excluding incineration;

193 (50) "Solid waste management project", a targeted project that meets statewide waste  
194 reduction and recycling priorities, and for which no solid waste management district grant  
195 applicant has applied to perform, and for which no qualified applicants have applied to perform  
196 such project by a competitive bid issued by the solid waste management district for the  
197 completion of such project;

198 (51) "Solid waste management system", the entire process of managing solid waste in  
199 a manner which minimizes the generation and subsequent disposal of solid waste, including  
200 waste reduction, source separation, collection, storage, transportation, recycling, resource  
201 recovery, volume minimization, processing, market development, and disposal of solid wastes;

202 (52) "Solid waste processing facility", any facility where solid wastes are salvaged and  
203 processed, including:

204 (a) A transfer station; or

205 (b) An incinerator which operates with or without energy recovery but excluding waste  
206 tire end-user facilities; or

207 (c) A material recovery facility which operates with or without composting;

208 (d) A plasma arc technology facility;

209 (53) "Solid waste technician", an individual who has successfully completed training in  
210 the practical aspects of the design, operation and maintenance of a permitted solid waste  
211 processing facility or solid waste disposal area in accordance with sections 260.200 to 260.345;

212 (54) "Tire", a continuous solid or pneumatic rubber covering encircling the wheel of any  
213 self-propelled vehicle not operated exclusively upon tracks, or a trailer as defined in chapter 301,  
214 except farm tractors and farm implements owned and operated by a family farm or family farm  
215 corporation as defined in section 350.010;

216 (55) "Used motor oil", any motor oil which, as a result of use, becomes unsuitable for  
217 its original purpose due to loss of original properties or the presence of impurities, but used  
218 motor oil shall not include ethylene glycol, oils used for solvent purposes, oil filters that have  
219 been drained of free flowing used oil, oily waste, oil recovered from oil tank cleaning operations,  
220 oil spilled to land or water, or industrial nonlube oils such as hydraulic oils, transmission oils,  
221 quenching oils, and transformer oils;

222 (56) "Utility waste landfill", a solid waste disposal area used for fly ash waste, bottom  
223 ash waste, slag waste and flue gas emission control waste generated primarily from the  
224 combustion of coal or other fossil fuels;

225 (57) "Yard waste", leaves, grass clippings, yard and garden vegetation and Christmas  
226 trees. The term does not include stumps, roots or shrubs with intact root balls.

227           2. For the purposes of this section and sections 260.270 to 260.279 and any rules in place  
228 as of August 28, 2005, or promulgated under said sections, the term "scrap" shall be used  
229 synonymously with and in place of waste, as it applies only to scrap tires.

260.243. The department of natural resources shall not issue a permit to an applicant for  
2 a commercial solid waste processing facility [~~designed to incinerate solid waste~~] in any county  
3 unless such facility meets the conditions established in this section. For the purposes of this  
4 section, a commercial solid waste processing facility is a facility [~~designed to incinerate waste~~  
5 ~~which accepts solid waste for a fee regardless of where such waste is generated~~] **as defined in**  
6 **subdivision (52) of subsection 1 of section 260.200**. Any commercial solid waste processing  
7 facility [~~which incinerates solid waste~~] shall be located so as to provide a health and safety buffer  
8 zone to protect citizens living or working nearby. The size of the buffer zone shall be determined  
9 by the department but shall extend at least fifty feet from a facility located in a nonresidential  
10 area in a city not within a county or at least [~~three~~] **five** hundred feet from a facility located  
11 elsewhere. The department shall consider the proximity of schools, businesses and houses, the  
12 prevailing winds and other factors which it deems relevant when establishing the buffer zone.  
13 Any facility located within a city not within a county shall be required to strictly adhere to the  
14 terms, conditions and provisions of its permit.

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