

Bill No. CS for SB 812

Amendment No.     

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Dyer moved the following amendment:

**Senate Amendment**

On page 8, line 3, through  
page 11, line 31, delete those lines

and insert:

252.938 Funding.--

(1) It is the intent of the Legislature that the state activities and expenditures under this part be self-sustaining through fees contributed by specified sources as provided in this part.

(2) All fees and penalties collected under this part must be deposited in the Operating Trust Fund for appropriation to fund the state's Accidental Release Prevention Program under this part.

252.939 Fees.--

(1)(a) Any owner or operator of a specified stationary source in the state which must submit a Risk Management Plan to the U.S. Environmental Protection Agency under Section 112(r)(7) shall pay an annual registration fee for each

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1 specified stationary source to the department. The annual  
2 registration fee is due to the department upon initial  
3 submission of a stationary source's Risk Management Plan to  
4 the U.S. Environmental Protection Agency, and every April 1  
5 thereafter.

6 (b) Prior individual written notice shall be provided  
7 by U.S. mail by the department to owners or operators of  
8 specified stationary sources in the state subject to the  
9 requirements under Section 112(r)(7) to submit Risk Management  
10 Plans and corresponding state registration fees. This notice  
11 must include the requirements of the state fee schedule and  
12 must be mailed at least 90 days before the due date for the  
13 specified stationary source's initial registration and Risk  
14 Management Plan submission year and at least 30 days before  
15 the registration fee due date for subsequent years.

16 (c) The department shall establish a fee schedule by  
17 rule for the specified stationary sources, upon the advice and  
18 consent of the commission. The annual registration fee must be  
19 based on a stationary source's highest program level, as  
20 determined under the federal implementing regulations for  
21 Section 112(r)(7) and may not exceed the following:

22 1. Program 1 Stationary Sources \$100. Multiple Program  
23 1 stationary sources which are under common ownership and  
24 which have the same single chemical process, shall pay a full  
25 fee for the first stationary source location and a 50 percent  
26 fee for subsequent locations with no owner of such multiple  
27 stationary sources paying more than \$1,000. To be eligible for  
28 this multiple stationary source fee provision, one single fee  
29 payment must be submitted by the owner of the eligible  
30 multiple stationary source locations with a listing of the  
31 multiple stationary source locations and the single chemical

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1 process.

2 2. Program 2 Stationary Sources \$200. Multiple Program  
3 2 stationary sources which are under common ownership and  
4 which have the same single chemical process, shall pay a full  
5 fee for the first three stationary source locations and a 50  
6 percent fee for subsequent locations with no owner of such  
7 multiple stationary sources paying more than \$2,000. Multiple  
8 Program 2 stationary sources which are under common ownership  
9 and which are classified under one of the following Standard  
10 Industrial Classification group numbers 01, 02, or 07 shall  
11 pay a full fee, not to exceed \$100 for the first stationary  
12 source location and a 50 percent fee for subsequent locations  
13 with no owner of such multiple stationary sources paying more  
14 than \$800. To be eligible for this multiple stationary source  
15 fee provisions, one single fee payment must be submitted by  
16 the owner of the eligible multiple stationary source locations  
17 with a listing of the multiple stationary source locations and  
18 the chemical process.

19 3. Program 3 Stationary Sources \$1,000.

20 (d) Annual registration fees under this section are  
21 not required until after the department receives final  
22 delegation approval from the U.S. Environmental Protection  
23 Agency to administer the Section 112(r)(7) Accidental Release  
24 Prevention Program for the specified stationary sources.

25 (2) The department shall establish by rule late fees,  
26 not to exceed 10 percent per month of the annual registration  
27 fee owed, and not to exceed a total of 50 percent, for failure  
28 to timely submit an annual registration fee. A late fee may  
29 not be assessed against a stationary source during the initial  
30 registration and submission year if 90 days prior written  
31 notice was not provided to that stationary source.

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1           (3) In determining whether an annual registration fee  
2 is timely submitted under subsections (1) and (2), if the fee  
3 is:

4           (a) Mailed via U.S. mail, the date of submittal is the  
5 date evidenced by the postmark.

6           (b) Delivered by overnight or other private mail  
7 carriers, the date of submittal is the date the package is  
8 deposited with the overnight carrier.

9           (c) Hand-delivered, other than by overnight or private  
10 mail carrier, the date of submittal is the date of actual  
11 receipt.

12           (4) If the Legislature directs the department to seek  
13 authority to implement and enforce Section 112(r)(7) of the  
14 Clean Air Act for additional stationary sources, the  
15 department shall, with the advise of the commission, review  
16 and suggest revisions, if necessary and appropriate, to the  
17 fees specified in s. 252.939.

18           252.940 Enforcement; procedure; remedies.--

19           (1) The department has the following enforcement  
20 authority and remedies for specified stationary sources  
21 available to it for violations of this part as specified in s.  
22 252.941:

23           (a) To institute a civil action in a court of  
24 competent jurisdiction in order to seek injunctive relief to  
25 immediately restrain or enjoin any person from engaging in any  
26 activity in violation of this part which is presenting an  
27 imminent and substantial endangerment to the public health or  
28 welfare or the environment; and to seek injunctive relief to  
29 enforce compliance with this part or any rule, regulation,  
30 program requirement, or order implementing this part.

31           (b) To institute a civil action in a court of

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1 competent jurisdiction to impose and to recover a civil  
2 penalty for each violation, as specified in s. 252.941(1), in  
3 an amount of not more than \$10,000 per offense. However, the  
4 court may receive evidence in mitigation. Each day during any  
5 portion of which such violation occurs constitutes a separate  
6 offense.

7 (c) To seek criminal remedies, including fines, for  
8 violations as specified in s. 252.941(2).

9 (d) Failure to comply with the fee provisions under s.  
10 252.939 is not a violation under s. 252.941. Section  
11 252.939(2) is the sole remedy for fee provisions in s.  
12 252.939, except that the department may enforce a final order  
13 entered under that section pursuant to s. 120.69.

14 (2) An action may not be commenced or continued under  
15 this section if the Administrator of the U.S. Environmental  
16 Protection Agency has commenced and is diligently pursuing an  
17 administrative order or civil or criminal action to enforce a  
18 specific requirement or to impose a civil or criminal penalty  
19 under Section 112(r) with respect to the specific violation.  
20 If the U.S. Environmental Protection Agency initiates any  
21 action after the state has initiated an action based on the  
22 same cause, the state suit shall be dismissed without  
23 prejudice and may be refiled only in the event that the U.S.  
24 Environmental Protection Agency discontinues the enforcement  
25 action prior to settlement or final judgment.

26 (3) For the purposes of this section, the department  
27 may offer and accept the use of emergency planning, training,  
28 and response-related Supplemental Environmental Projects,  
29 consistent with the guidelines established by the U.S.  
30 Environmental Protection Agency.

31 (4) The authorities and remedies provided under this

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1 section shall not take effect until after such time as the  
2 department has received final delegation approval from the  
3 U.S. Environmental Protection Agency to administer the Section  
4 112(r)(7) Accidental Release Prevention Program for Program 3  
5 and public stationary sources.  
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