

Bill No. CS for SB 812

Amendment No.

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Dyer moved the following amendment:		
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13	Senate Amendment		
14	On page 8, line 3, through		
15	page 11, line 31, delete those lines		
16			
17	and insert:		
18	<u>252.938 Funding.--</u>		
19	<u>(1) It is the intent of the Legislature that the state</u>		
20	<u>activities and expenditures under this part be self-sustaining</u>		
21	<u>through fees contributed by specified sources as provided in</u>		
22	<u>this part.</u>		
23	<u>(2) All fees and penalties collected under this part</u>		
24	<u>must be deposited in the Operating Trust Fund for</u>		
25	<u>appropriation to fund the state's Accidental Release</u>		
26	<u>Prevention Program under this part.</u>		
27	<u>252.939 Fees.--</u>		
28	<u>(1)(a) Any owner or operator of a specified stationary</u>		
29	<u>source in the state which must submit a Risk Management Plan</u>		
30	<u>to the U.S. Environmental Protection Agency under Section</u>		
31	<u>112(r)(7) shall pay an annual registration fee for each</u>		

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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 specified
5 stationary sources.
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