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authorized the state to create and enforce programs because it goes beyond the EPA's authority under RCRA and (2) res judicata barred the EPA from filing the action in the first place because the Missouri courts had already decided the issue through consent decrees. Bindbeutel said, because Missouri has taken nearly every opportunity afforded to it by the EPA to regulate the environment, this decision could significantly impact the weight of its enforcement.

TANYA WHITE



LEGISLATIVE UPDATE

HB 2042 – Beverage Container Law

This proposed law, which would become effective in 2002, would impose a refundable deposit of at least five cents on all soft drink, beer, and bottled water containers sold for consumption off-premises. Under the law, all containers would be required to be marked with their refund value and vendors would be required to refund the deposit for any container of a brand of beverage sold by that vendor. If the Department of Natural Resources deemed it convenient for customers, redemption centers that would accept cans on the behalf of vendors would be established. Beer distributors selling non-reusable metal cans would be required to provide for can-return facilities in each county seat. Large cities would be required to have at least one can-return facility for each 25,000 residents.

After vendors have refunded the deposits on returned cans, distributors would retrieve the cans from the vendors and, within one week, reimburse the vendors the deposit value plus one cent for each can or bottle.

This bill also proposes a ban on the sale of single-serving plastic beverage containers and metal cans with removable pull-tabs.

Most violations of the provisions of this bill are class C misdemeanors, although counterfeit labeling of containers and attempting to collect the deposit value of the same container more than once would be classified as class B misdemeanors. Moreover, the manufacture of a prohibited single-serving plastic beverage container would be classified as a class A misdemeanor.

WILLIAM C. ELLIS

HB 1414 -- One-Call Mandatory Notification System for Excavations

Representative James P. O'Toole sponsored this bill to further bolster the protection laws governing underground digging. This bill makes several changes to the existing law. This bill establishes a one-call mandatory notification system for excavations.

The bill makes several other changes. It requires owners and operators of state pipeline systems to participate in a statewide notification center by January 1, 2002. The center must maintain a list of all pipeline operators for the benefit of possible excavators. After the January 1 date, excavators would no longer be required to notify individual pipeline operators; notice to the center would suffice. The pipeline owner or operator then has an opportunity to meet with the excavator if the excavation plans are vague or uninformative. An excavator will be allowed to work so long as markings are visible. If an owner or operator does not respond, an excavator must send a second notice; if there is still no response, the excavator may begin digging. This bill does not allow the recovery of damages by any owner or

operator failing to participate in the notification center when notice of excavation was given. Lastly, it specifies emergency situations in which notice need not be given (i.e. floods, earthquakes, etc.).

The notification procedures and methods themselves are changed. A facsimile number must be included and a telephone number of a person listed on the notice. If the pipeline owner or operator errs in locating its equipment, the excavator must notify the center, which will then notify the owner or operator.

The utilities regulation committee last debated this bill. The executive session discussed this bill February 28 of this year. No hearings are scheduled; no floor debate has yet been set.

KEVIN M. JOHNSON

HB 1734--Pilot Program to Prevent Dumping

Representative Terry Riley has introduced HB 1734 to create a pilot program in Kansas City that would trigger the Criminal Activity Forfeiture Act (CAFA) upon the criminal disposition of waste. The criminal law committee passed the bill co-sponsored by Henry C. Rizzo, in late February by a vote of 15 to 0.

The bill would cause individuals who violated CAFA under its provisions to civilly forfeit all of the property used in or gained through committing criminal activities. However, the bill also contains a provision to allow individuals to use the removal of dumped materials within 10 days as a defense to charges.

The bill's supporters in the committee hearing argued that the bill would create the stiffer penalties necessary to prevent dumping and that similar efforts have proven successful in reducing dumping in other cities.

TANYA WHITE

HB 1143 – Establishes the senior environmental corps

This bill establishes a Senior Environmental Corps to provide opportunities for persons at least 55 years old to volunteer for projects related to natural and recreational resources. The Department of Natural Resources (DNR) will establish and provide support staff for a council consisting of members appointed by DNR, the Department of Conservation, and the Department of Economic Development. The Council will select and monitor projects, develop policies, project standards, and recruitment and training procedures.

The DNR may apply for grants, contributions, and cooperative agreements with federal, state, and local agencies for projects. Both the Council and the Attorney General must approve the work done in the projects and related duties, training, and expenses. The senior volunteers may not be used to displace any current employees or be used for enforcement activities. The bill also prohibits the use of state funds to carry out any of the corps activities.

SHERRIE BLAKE

SB 723--Controlling Invasive Species

This bill establishes control of invasive species, which the bill defines as organisms that are not native to an ecosystem and are likely to cause economic or environmental harm or harm to human health.

The proposed bill is an amendment to Chapter 252 of the Missouri statutes. It adds five sections: 400, 405, 410, 415, and 420. Section 400 defines key terms in the statute such as "control," "invasive species," and "ecosystem." Section 405 directs state agencies to identify and monitor their actions in regards to introducing an invasive species. The bill allows the agencies to take affirmative action by removing any such species to minimize any

damage that might be caused; it also prevents an agency from taking any action that might introduce any invasive species. Section 410 establishes an "invasive species council" to work with state agencies. The council members include the directors of the departments of agriculture, conservation, health, natural resources and transportation. This section additionally sets a very flexible advisory committee that can be made up of state employees, academic advisors and the like to suggest plans of action to the council. Section 420 sets the general goals and policy statements of the council. The final section establishes a timetable for the establishment and annual review of any control plans.

This bill, if passed, would greatly strengthen the power of state agencies and their responsibility to watch their actions, including their funding, and require a much closer examination of any and all repercussions. While it may make some decisions slower, any possible damage avoided will make up for the lack of quickness.

KEVIN M. JOHNSON

