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## Missouri

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## MISSOURI



*Heather Graham*\*

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### *I. Introduction*

While there have been no substantive changes in Missouri case law related to the oil and gas industry, there has been new legislation enacted and proposed by the Missouri General Assembly that may influence the state's oil and gas industry.

### *II. Enacted Legislation*

#### *Senate Bill No. 943*

Missouri Senate Bill No. 943,<sup>1</sup> which will be effective August 28, 2016,<sup>2</sup> repeals section 386.572 RSMo and enacts one new section relating to civil penalties for violating federally mandated natural gas safety standards, with penalty provisions in lieu thereof.<sup>3</sup> The bill establishes that federally mandated natural gas safety standards shall be subject to a civil penalty not to exceed an amount determined by the United States Secretary of Transportation pursuant to 49 CFR Part 190.223(a).<sup>4</sup> The preceding will supersede any provision of section 386.570 that asserts the contrary.<sup>5</sup>

Further, there will be six items taken into consideration when construing the aforementioned penalty.<sup>6</sup> Those items are (1) the degree of culpability; (2) any history of prior violations; (3) the effect of the penalty on the entity's ability to continue operation; (4) any good faith effort in attempting to achieve compliance; (5) ability to pay the penalty; and (6) such other matters as are relevant in the case.<sup>7</sup> Violations of specific standards, including continuing violations, shall be their own distinct offenses, subject to their own, distinct penalties, even in the event that they occur from the same incident.<sup>8</sup>

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1. S.B. 943, 98th Gen. Assemb., 2d Reg. Sess. (Mo. 2015).

2. MISSOURI SENATE, <http://www.senate.mo.gov> (follow "LEGISLATION" hyperlink; then follow "List of 2016 Senate Bills" hyperlink; then follow "SB 943" hyperlink) (last visited Sept. 20, 2016).

3. S.B. 943, 98th Gen. Assemb., 2d Reg. Sess. (Mo. 2015).

4. *Id.*

5. *Id.*; see generally, MO. REV. STAT. § 386.570 (2015) (stating the applicable penalty for any corporation or other entity for which there is no applicable penalty for violating the Missouri constitution or any of Missouri's statutes).

6. *Id.*

7. *Id.*

8. *Id.*

This section holds the act, omission or failure of any officer, agent, or employee acting within the official duties of employment to be the act, omission, or failure of the entity which owns the gas plant.<sup>9</sup> Any assessed penalty will be enforced against the owning entity.<sup>10</sup>

### *III. Proposed Legislation*

#### *A. House Bill No. 1933*

The Missouri House of Representatives has proposed two changes that could affect the oil and gas industry. Missouri House Bill No. 1933 purports to repeal section 259.052 RSMo, and replace it with a section to be known as 259.052.<sup>11</sup> The section, if enacted, will place the Oil and Gas Resources Fund under the purview of the Department of Economic Development (“DED”), moving it from under the Department of Natural Resources (“DNR”).<sup>12</sup> One half of the money in the fund would be spent by the DNR, and the other half would be spent by the energy division within the DED.<sup>13</sup>

#### *B. House Bill No. 2614*

Missouri House Bill No. 2614 would repeal and then enact sections 260.010, 260.035, 260.115, 260.125, and 640.010, RSMo.<sup>14</sup> In doing so, the bill would move the “State Environment Improvement and Energy Resources Authority” to the DNR, as well as subject the authority to appropriations.<sup>15</sup> Further, the state treasurer would oversee the Energy Resources Insured Loan Fund, a fund which would be dedicated to the Environmental Improvement Authority; any moneys remaining in the fund at the end of the biennium would stay in the fund as opposed to reverting to the general revenue fund.<sup>16</sup> The proposed changes would allow general revenue funds to be used in the carrying out of provisions 260.005 - 260.125, all of which concern the Environmental Improvement Authority.<sup>17</sup>

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9. *Id.*

10. *Id.*

11. H.R. 1933, 98th Gen. Assemb., 2nd Reg. Sess. (Mo. 2016).

12. *Id.*

13. *Id.*

14. H.R. 2614, 98th Gen. Assemb., 2nd Reg. Sess. (Mo. 2016).

15. *Id.*

16. *Id.*

17. *Id.*