

SENATE BILL No. 386

AN ACT concerning air contaminant emission sources; amending K.S.A. 65-3002 and 65-3005 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 65-3002 is hereby amended to read as follows: 65-3002. As used in this act, unless the context clearly requires otherwise:

(a) "Air contaminant" means dust, fumes, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof, but not including water vapor or steam condensate.

(b) "Air contamination" means the presence in the outdoor atmosphere of one or more air contaminants.

(c) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as is, or tends significantly to be, injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or property, *or would contribute to the formation of regional haze.*

(d) "Alter" means any physical change in, or change in the method of operation of, an air contaminant emission stationary source which increases the amount of any regulated air pollutant emitted by such source or which results in the emission of any regulated air pollutant not previously emitted.

(e) "Emission" means a release into the outdoor atmosphere of air contaminants.

(f) "*Deciview*" means an atmospheric haze index that expresses changes in visibility conditions as defined in 40 C.F.R. 51.301 as in effect on July 1, 2005.

~~(g)~~ (g) "Facility" means any building, structure, machine, equipment, device or installation (or group of buildings, structures, machines, equipment, devices or installations), whether temporary or permanent, located on one or more contiguous or adjacent properties and under common control of the same person (or persons under common control). Such term shall not include locomotives, diesel trucks or truck tractors unless otherwise required by the federal clean air act, as amended in November 1990.

~~(h)~~ (h) "Modify" or "modification," when used in conjunction with an approval or permit action, means an amendment to an existing approval or permit initiated by the permittee. When used to describe a change in any air contaminant emission stationary source, "modify" shall have the same meaning as the term "alter."

~~(i)~~ (i) "Permittee" means the holder of an approval or the holder of a permit and includes both the owner and the operator of any approved or permitted air contaminant emission source.

~~(j)~~ (j) "Person" means any individual, partnership, firm, association, municipality, public or private corporation, subdivision or agency of the state or federal government, trust, estate or any other legal entity.

(k) "*Regional haze*" means visibility impairment, measured in deciviews, occurring over a large geographic area caused by the cumulative emissions of gaseous and particulate air contaminants from numerous sources.

~~(l)~~ (l) "Reopen" means to seek an amendment to an existing approval or permit initiated by any person other than the permittee.

~~(m)~~ (m) "Secretary" means the secretary of health and environment.

~~(n)~~ (n) "Stationary source" means any building, structure, facility or installation which emits or may emit any air contaminant.

Sec. 2. K.S.A. 65-3005 is hereby amended to read as follows: 65-3005. The secretary shall have the power to:

(a) Adopt, amend and repeal rules and regulations implementing and consistent with this act.

(b) Hold hearings relating to any aspect of or matter in the administration of this act concerning air quality control, and in connection therewith, compel the attendance of witnesses and the production of evidence.

(c) Issue such orders, permits and approvals as may be necessary to effectuate the purposes of this act and enforce the same by all appropriate administrative and judicial proceedings.

(d) Require access to records relating to emissions which cause or contribute to air pollution.

(e) Prepare and develop a comprehensive plan or plans for the prevention, abatement and control of air pollution ~~in this state~~ *originating in Kansas that affects air quality in Kansas or in other states or both.*

(f) Adopt rules and regulations governing such public notification and comment procedures as authorized by this act.

(g) Encourage voluntary cooperation by persons or affected groups to achieve the purposes of this act.

(h) (1) Encourage local units of government to handle air pollution problems within their respective jurisdictions and on a cooperative basis; (2) provide technical and consultative assistance therefor; and (3) enter into agreements with local units of government to administer all or part of the provisions of the Kansas air quality act in the units' respective jurisdictions.

(i) Encourage and conduct studies, investigations and research relating to air contamination and air pollution and their causes, effects, prevention, abatement and control.

(j) Encourage air contaminant emission sources to voluntarily implement strategies, including the development and use of innovative technologies, market-based principles and other private initiatives to reduce or prevent pollution.

(k) Determine by means of field studies and sampling the degree of air contamination and air pollution in the state and the several parts thereof.

(l) Establish ambient air quality standards for the state as a whole or for any part thereof.

(m) Collect and disseminate information and conduct educational and training programs relating to air contamination and air pollution.

(n) Advise, consult and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, and the federal government, and with interested persons or groups.

(o) Accept, receive and administer grants or other funds or gifts from public and private entities, including the federal government, for the purpose of carrying out any of the functions of this act. Such funds received by the secretary pursuant to this section shall be deposited in the state treasury to the account of the department of health and environment.

(p) Enter into contracts and agreements with other state agencies or subdivisions, ~~municipalities~~ *local governments, other states, interstate agencies*, the federal government or its agencies or private entities as is necessary to accomplish the purposes of the Kansas air quality act.

(q) *Conduct or participate in intrastate or interstate emissions trading programs or other programs that demonstrate equivalent air quality benefits for the prevention, abatement and control of air pollution in Kansas or in other states or both.*

(r) *Prepare and adopt a regional haze plan as may be necessary to prevent, abate and control air pollution originating in Kansas that affects air quality in Kansas or in other states or both. Any regional haze plan prepared by the secretary shall be no more stringent than is required by 42 U.S.C. 7491.*

(s) *Participate in the activities of any visibility transport commission established under 42 U.S.C. 7492. The secretary shall report to the governor and the legislature on the activities of any such visibility transport commission annually.*

Sec. 3. K.S.A. 65-3002 and 65-3005 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE concurred in
HOUSE amendments _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.