

AIR QUALITY BOARD AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Roger E. Barrus

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends a provision relating to the power of the Air Quality Board.

Highlighted Provisions:

This bill:

- ▶ amends the Air Quality Board's authority to enter into interstate contracts; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-2-104, as last amended by Laws of Utah 2008, Chapters 68 and 382

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **19-2-104** is amended to read:

19-2-104. Powers of board.

(1) The board may make rules in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act:

(a) regarding the control, abatement, and prevention of air pollution from all sources



28 and the establishment of the maximum quantity of air contaminants that may be emitted by any
29 air contaminant source;

30 (b) establishing air quality standards;

31 (c) requiring persons engaged in operations which result in air pollution to:

32 (i) install, maintain, and use emission monitoring devices, as the board finds necessary;

33 (ii) file periodic reports containing information relating to the rate, period of emission,
34 and composition of the air contaminant; and

35 (iii) provide access to records relating to emissions which cause or contribute to air
36 pollution;

37 (d) implementing 15 U.S.C.A. 2601 et seq. Toxic Substances Control Act, Subchapter
38 II - Asbestos Hazard Emergency Response, and reviewing and approving asbestos management
39 plans submitted by local education agencies under that act;

40 (e) establishing a requirement for a diesel emission opacity inspection and maintenance
41 program for diesel-powered motor vehicles;

42 (f) implementing an operating permit program as required by and in conformity with
43 Titles IV and V of the federal Clean Air Act Amendments of 1990;

44 (g) establishing requirements for county emissions inspection and maintenance
45 programs after obtaining agreement from the counties that would be affected by the
46 requirements;

47 (h) with the approval of the governor, implementing in air quality nonattainment areas
48 employer-based trip reduction programs applicable to businesses having more than 100
49 employees at a single location and applicable to federal, state, and local governments to the
50 extent necessary to attain and maintain ambient air quality standards consistent with the state
51 implementation plan and federal requirements under the standards set forth in Subsection (2);
52 and

53 (i) implementing lead-based paint remediation training, certification, and performance
54 requirements in accordance with 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act,
55 Subchapter IV -- Lead Exposure Reduction, Sections 402 and 406.

56 (2) When implementing Subsection (1)(h) the board shall take into consideration:

57 (a) the impact of the business on overall air quality; and

58 (b) the need of the business to use automobiles in order to carry out its business

59 purposes.

60 (3) The board may:

61 (a) hold hearings relating to any aspect of or matter in the administration of this chapter
62 and compel the attendance of witnesses and the production of documents and other evidence,
63 administer oaths and take testimony, and receive evidence as necessary;

64 (b) issue orders necessary to enforce the provisions of this chapter, enforce the orders
65 by appropriate administrative and judicial proceedings, and institute judicial proceedings to
66 secure compliance with this chapter;

67 (c) settle or compromise any civil action initiated to compel compliance with this
68 chapter and the rules made under this chapter;

69 (d) secure necessary scientific, technical, administrative, and operational services,
70 including laboratory facilities, by contract or otherwise;

71 (e) prepare and develop a comprehensive plan or plans for the prevention, abatement,
72 and control of air pollution in this state;

73 (f) encourage voluntary cooperation by persons and affected groups to achieve the
74 purposes of this chapter;

75 (g) encourage local units of government to handle air pollution within their respective
76 jurisdictions on a cooperative basis and provide technical and consultative assistance to them;

77 (h) encourage and conduct studies, investigations, and research relating to air
78 contamination and air pollution and their causes, effects, prevention, abatement, and control;

79 (i) determine by means of field studies and sampling the degree of air contamination
80 and air pollution in all parts of the state;

81 (j) monitor the effects of the emission of air contaminants from motor vehicles on the
82 quality of the outdoor atmosphere in all parts of this state and take appropriate action with
83 respect to them;

84 (k) collect and disseminate information and conduct educational and training programs
85 relating to air contamination and air pollution;

86 (l) except as provided by Subsection (6), advise, consult, contract, and cooperate with
87 other agencies of the state, local governments, industries, other states, interstate or interlocal
88 agencies, the federal government, and with interested persons or groups;

89 (m) consult, upon request, with any person proposing to construct, install, or otherwise

90 acquire an air contaminant source in the state concerning the efficacy of any proposed control
91 device, or system for this source, or the air pollution problem which may be related to the
92 source, device, or system, but a consultation does not relieve any person from compliance with
93 this chapter, the rules adopted under it, or any other provision of law;

94 (n) accept, receive, and administer grants or other funds or gifts from public and
95 private agencies, including the federal government, for the purpose of carrying out any of the
96 functions of this chapter;

97 (o) require the owner and operator of each new source which directly emits or has the
98 potential to emit 100 tons per year or more of any air contaminant or the owner or operator of
99 each existing source which by modification will increase emissions or have the potential of
100 increasing emissions by 100 tons per year or more of any air contaminant, to pay a fee
101 sufficient to cover the reasonable costs of:

102 (i) reviewing and acting upon the notice required under Section 19-2-108; and

103 (ii) implementing and enforcing requirements placed on the sources by any approval
104 order issued pursuant to notice, not including any court costs associated with any enforcement
105 action;

106 (p) assess and collect noncompliance penalties as required in Section 120 of the federal
107 Clean Air Act, 42 U.S.C. Sec. 7420;

108 (q) meet the requirements of federal air pollution laws;

109 (r) establish work practice, certification, and clearance air sampling requirements for
110 persons who:

111 (i) contract for hire to conduct demolition, renovation, salvage, encapsulation work
112 involving friable asbestos-containing materials, or asbestos inspections;

113 (ii) conduct work described in Subsection (3)(r)(i) in areas to which the general public
114 has unrestrained access or in school buildings that are subject to the federal Asbestos Hazard
115 Emergency Response Act of 1986;

116 (iii) conduct asbestos inspections in facilities subject to 15 U.S.C.A. 2601 et seq.,
117 Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response; or

118 (iv) conduct lead paint inspections in facilities subject to 15 U.S.C.A. 2601 et seq.,
119 Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction;

120 (s) establish certification requirements for persons required under 15 U.S.C.A. 2601 et

121 seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to
122 be accredited as inspectors, management planners, abatement project designers, asbestos
123 abatement contractors and supervisors, or asbestos abatement workers;

124 (t) establish certification requirements for asbestos project monitors, which shall
125 provide for experience-based certification of persons who, prior to establishment of the
126 certification requirements, had received relevant asbestos training, as defined by rule, and had
127 acquired at least 1,000 hours of experience as project monitors;

128 (u) establish certification procedures and requirements for certification of the
129 conversion of a motor vehicle to a clean-fuel vehicle, certifying the vehicle is eligible for the
130 tax credit granted in Section 59-7-605 or 59-10-1009;

131 (v) establish a program to certify private sector air quality permitting professionals
132 (AQPP), as described in Section 19-2-109.5;

133 (w) establish certification requirements for persons required under 15 U.S.C.A. 2601 et
134 seq., Toxic Control Act, Subchapter IV -- Lead Exposure Reduction, to be accredited as
135 inspectors, risk assessors, supervisors, project designers, or abatement workers; and

136 (x) assist the State Board of Education in adopting school bus idling reduction
137 standards and implementing an idling reduction program in accordance with Section
138 41-6a-1308.

139 (4) Any rules adopted under this chapter shall be consistent with provisions of federal
140 laws, if any, relating to control of motor vehicles or motor vehicle emissions.

141 (5) Nothing in this chapter authorizes the board to require installation of or payment for
142 any monitoring equipment by the owner or operator of a source if the owner or operator has
143 installed or is operating monitoring equipment that is equivalent to equipment which the board
144 would require under this section.

145 (6) On or after May 12, 2009, the Air Quality Board may not enter into, amend, or
146 modify a contract or other agreement that, in order to implement or comply with the contract or
147 agreement:

148 (a) requires a statutory amendment;

149 (b) requires the state to expend more than \$50,000;

150 (c) legally binds the state to a new or substantially different policy; or

151 (d) imposes a legal duty on a person in the state.

Legislative Review Note
as of 12-9-08 7:16 AM

Office of Legislative Research and General Counsel

H.B. 191 - Air Quality Board Amendments

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
