

SCHOOL BUS AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Christine A. Johnson

Senate Sponsor: Mike Dmitrich

LONG TITLE

General Description:

This bill modifies the Environmental Quality Code and the Motor Vehicles Code by amending provisions relating to school buses.

Highlighted Provisions:

This bill:

- ▶ requires the State Board of Education, in consultation with local school districts and the Air Quality Board, to adopt idling reduction standards and implement an idling reduction program; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ for the fiscal year 2008-09 only, \$100,000 from the Uniform School Fund to the State Board of Education for a clean school bus purchase or retrofit program.

Other Special Clauses:

This bill takes effect on July 1, 2008.

Utah Code Sections Affected:

AMENDS:

19-2-102, as last amended by Laws of Utah 1995, Chapter 250

19-2-104, as last amended by Laws of Utah 2006, Chapter 223

ENACTS:

41-6a-1308, Utah Code Annotated 1953

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

31 Section 1. Section **19-2-102** is amended to read:

32 **19-2-102. Definitions.**

33 As used in this chapter:

34 (1) "Air contaminant" means any particulate matter or any gas, vapor, suspended solid,
35 or any combination of them, excluding steam and water vapors.

36 (2) "Air contaminant source" means all sources of emission of air contaminants whether
37 privately or publicly owned or operated.

38 (3) "Air pollution" means the presence in the ambient air of one or more air
39 contaminants in the quantities and duration and under conditions and circumstances as is or
40 tends to be injurious to human health or welfare, animal or plant life, or property, or would
41 unreasonably interfere with the enjoyment of life or use of property, as determined by the rules
42 adopted by the board.

43 (4) "Ambient air" means the surrounding or outside air.

44 (5) "Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite
45 (crocidolite), cummingtonite-grunerite, anthophyllite, and actinolite-tremolite.

46 (6) "Asbestos-containing material" means any material containing more than 1%
47 asbestos, as determined using the method adopted in 40 CFR Part 61, Subpart M, National
48 Emission Standard for Asbestos.

49 (7) "Asbestos inspection" means an activity undertaken to determine the presence or
50 location, or to assess the condition of, asbestos-containing material or suspected
51 asbestos-containing material, whether by visual or physical examination, or by taking samples of
52 the material.

53 (8) (a) "Board" means the Air Quality Board.

54 (b) "Board" means, as used in Sections 19-2-123 through 19-2-126, the Air Quality
55 Board or the Water Quality Board.

56 (9) "Clean school bus" has the same meaning as defined in 42 U.S.C. Sec. 16091.

57 [~~9~~] (10) "Executive secretary" means the executive secretary of the board.

58 ~~[(10)]~~ (11) (a) "Facility" means machinery, equipment, structures, or any part or
59 accessories of them, installed or acquired for the primary purpose of controlling or disposing of
60 air pollution.

61 (b) "Facility" does not include an air conditioner, fan, or other similar facility for the
62 comfort of personnel.

63 ~~[(11)]~~ (12) "Friable asbestos-containing material" means any material containing more
64 than 1% asbestos, as determined using the method adopted in 40 CFR Part 61, Subpart M,
65 National Emission Standard for Asbestos, that hand pressure can crumble, pulverize, or reduce
66 to powder when dry.

67 ~~[(12)]~~ (13) "Indirect source" means a facility, building, structure, or installation which
68 attracts or may attract mobile source activity that results in emissions of a pollutant for which
69 there is a national standard.

70 ~~[(13)]~~ (14) (a) "Pollution control facility" or "facility" means, as used in Sections
71 19-2-123 through 19-2-126, any land, structure, building, installation, excavation, machinery,
72 equipment, or device, or any addition to, reconstruction, replacement or improvement of, land
73 or an existing structure, building, installation, excavation, machinery, equipment, or device
74 reasonably used, erected, constructed, acquired, or installed by any person if the primary
75 purpose of the use, erection, construction, acquisition, or installation is the prevention, control,
76 or reduction of air or water pollution by:

77 (i) the disposal or elimination of or redesign to eliminate waste and the use of treatment
78 works for industrial waste as defined in Title 19, Chapter 5, Water Quality Act; or

79 (ii) the disposal, elimination, or reduction of or redesign to eliminate or reduce air
80 contaminants or air pollution or air contamination sources and the use of air cleaning devices.

81 (b) "Pollution control facility" or "facility" does not include air conditioners, septic
82 tanks, or other facilities for human waste, nor any property installed, constructed, or used for
83 the moving of sewage to the collection facilities of a public or quasi-public sewerage system.

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

85 **19-2-104. Powers of board.**

86 (1) The board may make rules in accordance with Title 63, Chapter 46a, Utah
87 Administrative Rulemaking Act:

88 (a) regarding the control, abatement, and prevention of air pollution from all sources
89 and the establishment of the maximum quantity of air contaminants that may be emitted by any
90 air contaminant source;

91 (b) establishing air quality standards;

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

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

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

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

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

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

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

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

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

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

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

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

119 (b) the need of the business to use automobiles in order to carry out its business
120 purposes.

121 (3) The board may:

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

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

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

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

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

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

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

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

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

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

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

147 (l) advise, consult, contract, and cooperate with other agencies of the state, local
148 governments, industries, other states, interstate or interlocal agencies, the federal government,
149 and with interested persons or groups;

150 (m) consult, upon request, with any person proposing to construct, install, or otherwise
151 acquire an air contaminant source in the state concerning the efficacy of any proposed control
152 device, or system for this source, or the air pollution problem which may be related to the
153 source, device, or system, but a consultation does not relieve any person from compliance with
154 this chapter, the rules adopted under it, or any other provision of law;

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

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

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

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

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

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

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

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

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

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

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

181 (s) establish certification requirements for persons required under 15 U.S.C.A. 2601 et
182 seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to
183 be accredited as inspectors, management planners, abatement project designers, asbestos
184 abatement contractors and supervisors, or asbestos abatement workers;

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

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

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

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

197 (x) assist the State Board of Education in adopting school bus idling reduction

198 standards and implementing an idling reduction program in accordance with Section
199 41-6a-1308.

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

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

206 Section 3. Section **41-6a-1308** is enacted to read:

207 **41-6a-1308. School bus idling standards.**

208 The State Board of Education shall, in consultation with local school districts and the
209 Air Quality Board:

- 210 (1) implement an idling reduction program for all school bus drivers in the state; and
211 (2) adopt idling reduction standards in the Utah Standards for Utah School Buses and
212 Operations, 2008 edition.

213 Section 4. **Appropriation.**

214 (1) There is appropriated from the Uniform School Fund for fiscal year 2008-09 only,
215 \$100,000 to the State Board of Education.

216 (2) The appropriation under Subsection (1) is nonlapsing.

217 (3) The State Board of Education shall use funds appropriated under Subsection (1) to
218 provide matching funds for grants awarded by the federal government or private sources to
219 local school districts for the purchase or retrofit of clean school buses as defined in 42 U.S.C.
220 Sec. 16091.

221 Section 5. **Effective date.**

222 This bill takes effect on July 1, 2008.