

1 **REGULATION OF LEAD-BASED PAINT**

2 **REMEDICATION**

3 1998 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: L. Alma Mansell**

6 AN ACT RELATING TO THE ENVIRONMENTAL QUALITY CODE; GRANTING
7 RULE-MAKING AUTHORITY TO THE AIR QUALITY BOARD TO IMPLEMENT AND
8 REGULATE FEDERAL STANDARDS FOR LEAD-BASED PAINT REMEDIATION; AND
9 MAKING TECHNICAL CHANGES.

10 This act affects sections of Utah Code Annotated 1953 as follows:

11 AMENDS:

12 **19-2-104**, as last amended by Chapters 75 and 257, Laws of Utah 1996

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

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

15 **19-2-104. Powers of board.**

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

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

21 (b) establishing air quality standards;

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

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

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

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

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

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

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

8 (g) establishing requirements for county emissions inspection and maintenance programs
9 after obtaining agreement from the counties that would be affected by the requirements; [and]

10 (h) with the approval of the governor, implementing in air quality nonattainment areas
11 employer-based trip reduction programs applicable to businesses having more than 100 employees
12 at a single location and applicable to federal, state, and local governments to the extent necessary
13 to attain and maintain ambient air quality standards consistent with the state implementation plan
14 and federal requirements [subject to] under the standards [under] set forth in Subsection (2)[-]; and

15 (i) implementing lead-based paint remediation training, certification, and performance
16 requirements in accordance with 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act,
17 Subchapter IV -- Lead Exposure Reduction, Section 402 and 404.

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

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

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

21 (3) The board may:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (i) reviewing and acting upon the notice required under Section 19-2-108; and
- 2 (ii) implementing and enforcing requirements placed on the sources by any approval order
- 3 issued pursuant to notice, not including any court costs associated with any enforcement action;
- 4 (p) assess and collect noncompliance penalties as required in Section 120 of the federal
- 5 Clean Air Act, 42 U.S.C. Sec. 7420;
- 6 (q) meet the requirements of federal air pollution laws;
- 7 (r) establish work practice, certification, and clearance air sampling requirements for
- 8 persons who:
 - 9 (i) contract for hire to conduct demolition, renovation, salvage, encapsulation work
 - 10 involving friable asbestos-containing materials, or asbestos inspections; or
 - 11 (ii) conduct work described in Subsection (i) in areas to which the general public has
 - 12 unrestrained access or in school buildings that are subject to the federal Asbestos Hazard
 - 13 Emergency Response Act of 1986; [or]
 - 14 (iii) conduct asbestos inspections in facilities subject to 15 U.S.C.A. 2601 et seq., Toxic
 - 15 Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response; or
 - 16 (iv) conduct lead paint inspections in facilities subject to 15 U.S.C.A. 2601 et seq., Toxic
 - 17 Substances Control Act, Subchapter IV -- Lead Exposure Reduction;
 - 18 (s) establish certification requirements for persons required under 15 U.S.C.A. 2601 et
 - 19 seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to be
 - 20 accredited as inspectors, management planners, abatement project designers, asbestos abatement
 - 21 contractors and supervisors, or asbestos abatement workers;
 - 22 (t) establish certification requirements for asbestos project monitors, which shall provide
 - 23 for experience-based certification of persons who, prior to establishment of the certification
 - 24 requirements, had received relevant asbestos training, as defined by rule, and had acquired at least
 - 25 1,000 hours of experience as project monitors;
 - 26 (u) establish certification procedures and requirements for certification of the conversion
 - 27 of a motor vehicle to a clean-fuel vehicle, certifying the vehicle is eligible for the tax credit granted
 - 28 in Section 59-7-605 or 59-10-127; [and]
 - 29 (v) establish a program to certify private sector air quality permitting professionals
 - 30 (AQPP), as described in Section 19-2-109.5[-]; and
 - 31 (w) establish certification requirements for persons required under 15 U.S.C.A. 2601 et

1 seq., Toxic Control Act, Subchapter IV -- Lead Exposure Reduction, to be accredited as inspectors,
2 risk assessors, supervisors, project designers, or abatement workers.

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

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

Legislative Review Note
as of 12-12-97 1:13 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel