

WOOD BURNING AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Patrice M. Arent

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill deals with wood burning and air quality.

Highlighted Provisions:

This bill:

▶ authorizes the director of the Division of Air Quality to hire contractors or part-time temporary employees to investigate reports of wood burning on days when wood burning is prohibited;

▶ requires the Division of Air Quality to create a:

- public awareness campaign about the effects of wood burning on air quality; and
- program to convert a dwelling in which the sole source of heat is a wood burning stove to a natural gas or other clean fuel heating source, as funding allows;

▶ authorizes the Division of Air Quality to pursue private and federal sources of funding, in addition to any funds appropriated by the Legislature, to implement the wood burning conversion program; and

▶ makes technical changes.

Money Appropriated in this Bill:

This bill appropriates:

▶ to the Department of Environmental Quality – Division of Air Quality as a one-time appropriation:



- 28 • from the General Fund, one-time, \$1,800,000; and
- 29 ▶ to the Department of Environmental Quality – Division of Air Quality as an
- 30 ongoing appropriation:
- 31 • from the General Fund, ongoing, \$250,000.

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **19-2-104**, as last amended by Laws of Utah 2012, Chapters 43 and 360

37 **19-2-107**, as last amended by Laws of Utah 2012, Chapter 360

38 ENACTS:

39 **19-2-107.5**, Utah Code Annotated 1953



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

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

43 **19-2-104. Powers of board.**

44 (1) The board may make rules in accordance with Title 63G, Chapter 3, Utah
45 Administrative Rulemaking Act:

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

49 (b) establishing air quality standards;

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

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

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

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

56 (d) (i) implementing:

57 (A) Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency
58 Response, 15 U.S.C. 2601 et seq.;

- 59 (B) 40 C.F.R. Part 763, Asbestos; and
- 60 (C) 40 C.F.R. Part 61, National Emission Standards for Hazardous Air Pollutants,
- 61 Subpart M, National Emission Standard for Asbestos; and
- 62 (ii) reviewing and approving asbestos management plans submitted by local education
- 63 agencies under the Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency
- 64 Response, 15 U.S.C. 2601 et seq.;
- 65 (e) establishing a requirement for a diesel emission opacity inspection and maintenance
- 66 program for diesel-powered motor vehicles;
- 67 (f) implementing an operating permit program as required by and in conformity with
- 68 Titles IV and V of the federal Clean Air Act Amendments of 1990;
- 69 (g) establishing requirements for county emissions inspection and maintenance
- 70 programs after obtaining agreement from the counties that would be affected by the
- 71 requirements;
- 72 (h) with the approval of the governor, implementing in air quality nonattainment areas
- 73 employer-based trip reduction programs applicable to businesses having more than 100
- 74 employees at a single location and applicable to federal, state, and local governments to the
- 75 extent necessary to attain and maintain ambient air quality standards consistent with the state
- 76 implementation plan and federal requirements under the standards set forth in Subsection (2);
- 77 ~~and~~
- 78 (i) implementing lead-based paint remediation training, certification, and performance
- 79 requirements in accordance with 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act,
- 80 Subchapter IV -- Lead Exposure Reduction, Sections 402 and 406[-]; and
- 81 (j) to implement the requirements of Section 19-2-107.5.
- 82 (2) When implementing Subsection (1)(h) the board shall take into consideration:
- 83 (a) the impact of the business on overall air quality; and
- 84 (b) the need of the business to use automobiles in order to carry out its business
- 85 purposes.
- 86 (3) (a) The board may:
- 87 (i) hold a hearing that is not an adjudicative proceeding relating to any aspect of, or
- 88 matter in, the administration of this chapter;
- 89 (ii) order the director to:

90 (A) issue orders necessary to enforce the provisions of this chapter;
91 (B) enforce the orders by appropriate administrative and judicial proceedings; or
92 (C) institute judicial proceedings to secure compliance with this chapter; or
93 (iii) advise, consult, contract, and cooperate with other agencies of the state, local
94 governments, industries, other states, interstate or interlocal agencies, the federal government,
95 or interested persons or groups.

96 (b) The board shall:

97 (i) to ensure compliance with applicable statutes and regulations:

98 (A) review a settlement negotiated by the director in accordance with Subsection
99 19-2-107(2)(b)(viii) that requires a civil penalty of \$25,000 or more; and

100 (B) approve or disapprove the settlement;

101 (ii) encourage voluntary cooperation by persons and affected groups to achieve the
102 purposes of this chapter;

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

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

109 (B) implementing and enforcing requirements placed on the sources by any approval
110 order issued pursuant to notice, not including any court costs associated with any enforcement
111 action;

112 (iv) meet the requirements of federal air pollution laws;

113 (v) by rule, establish work practice, certification, and clearance air sampling
114 requirements for persons who:

115 (A) contract for hire to conduct demolition, renovation, salvage, encapsulation work
116 involving friable asbestos-containing materials, or asbestos inspections if:

117 (I) the contract work is done on a site other than a residential property with four or
118 fewer units; or

119 (II) the contract work is done on a residential property with four or fewer units where a
120 tested sample contained greater than 1% of asbestos;

121 (B) conduct work described in Subsection (3)(b)(v)(A) in areas to which the general
122 public has unrestrained access or in school buildings that are subject to the federal Asbestos
123 Hazard Emergency Response Act of 1986;

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

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

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

132 (vii) establish certification requirements for asbestos project monitors, which shall
133 provide for experience-based certification of persons who, prior to establishment of the
134 certification requirements, had received relevant asbestos training, as defined by rule, and had
135 acquired at least 1,000 hours of experience as project monitors;

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

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

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

144 (xi) assist the State Board of Education in adopting school bus idling reduction
145 standards and implementing an idling reduction program in accordance with Section
146 41-6a-1308.

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

149 (5) Nothing in this chapter authorizes the board to require installation of or payment for
150 any monitoring equipment by the owner or operator of a source if the owner or operator has
151 installed or is operating monitoring equipment that is equivalent to equipment which the board

152 would require under this section.

153 (6) (a) The board may not require testing for asbestos or related materials on a
154 residential property with four or fewer units, unless:

155 (i) the property's construction was completed before January 1, 1981; or

156 (ii) the testing is for:

157 (A) a sprayed acoustical ceiling;

158 (B) transite siding;

159 (C) vinyl floor tile;

160 (D) thermal-system insulation or tape on a duct or furnace; or

161 (E) vermiculite type insulation materials.

162 (b) A residential property with four or fewer units is subject to an abatement rule made
163 under Subsection (1) or (3)(b)(v) if:

164 (i) a sample from the property is tested for asbestos; and

165 (ii) the sample contains asbestos measuring greater than 1%.

166 (7) The board may not issue, amend, renew, modify, revoke, or terminate any of the
167 following that are subject to the authority granted to the director under Section [19-2-107](#) or
168 [19-2-108](#):

169 (a) a permit;

170 (b) a license;

171 (c) a registration;

172 (d) a certification; or

173 (e) another administrative authorization made by the director.

174 (8) A board member may not speak or act for the board unless the board member is
175 authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

176 (9) Notwithstanding Subsection (7), the board may exercise all authority granted to the
177 board by a federally enforceable state implementation plan.

178 Section 2. Section **19-2-107** is amended to read:

179 **19-2-107. Director -- Appointment -- Powers.**

180 (1) The executive director shall appoint the director. The director shall serve under the
181 administrative direction of the executive director.

182 (2) (a) The director shall:

- 183 (i) prepare and develop comprehensive plans for the prevention, abatement, and control
184 of air pollution in Utah;
- 185 (ii) advise, consult, and cooperate with other agencies of the state, the federal
186 government, other states and interstate agencies, and affected groups, political subdivisions,
187 and industries in furtherance of the purposes of this chapter;
- 188 (iii) review plans, specifications, or other data relative to pollution control systems or
189 any part of the systems provided in this chapter;
- 190 (iv) under the direction of the executive director, represent the state in all matters
191 relating to interstate air pollution, including interstate compacts and similar agreements;
- 192 (v) secure necessary scientific, technical, administrative, and operational services,
193 including laboratory facilities, by contract or otherwise;
- 194 (vi) encourage voluntary cooperation by persons and affected groups to achieve the
195 purposes of this chapter;
- 196 (vii) encourage local units of government to handle air pollution within their respective
197 jurisdictions on a cooperative basis and provide technical and consulting assistance to them;
- 198 (viii) determine by means of field studies and sampling the degree of air contamination
199 and air pollution in all parts of the state;
- 200 (ix) monitor the effects of the emission of air contaminants from motor vehicles on the
201 quality of the outdoor atmosphere in all parts of Utah and take appropriate responsive action;
- 202 (x) collect and disseminate information relating to air contamination and air pollution
203 and conduct educational and training programs relating to air contamination and air pollution;
- 204 (xi) assess and collect noncompliance penalties as required in Section 120 of the
205 federal Clean Air Act, 42 U.S.C. Section 7420;
- 206 (xii) comply with the requirements of federal air pollution laws;
- 207 (xiii) subject to the provisions of this chapter, enforce rules through the issuance of
208 orders, including:
- 209 (A) prohibiting or abating discharges of wastes affecting ambient air;
- 210 (B) requiring the construction of new control facilities or any parts of new control
211 facilities or the modification, extension, or alteration of existing control facilities or any parts
212 of new control facilities; or
- 213 (C) adopting other remedial measures to prevent, control, or abate air pollution; and

214 (xiv) as authorized by the board and subject to the provisions of this chapter, act as
215 executive secretary of the board under the direction of the chairman of the board.

216 (b) The director may:

217 (i) employ full-time, temporary, part-time, and contract employees necessary to carry
218 out this chapter;

219 (ii) subject to the provisions of this chapter, authorize any employee or representative
220 of the department to enter at reasonable time and upon reasonable notice in or upon public or
221 private property for the purposes of inspecting and investigating conditions and plant records
222 concerning possible air pollution;

223 (iii) encourage, participate in, or conduct studies, investigations, research, and
224 demonstrations relating to air pollution and its causes, effects, prevention, abatement, and
225 control, as advisable and necessary for the discharge of duties assigned under this chapter,
226 including the establishment of inventories of pollution sources;

227 (iv) collect and disseminate information relating to air pollution and the prevention,
228 control, and abatement of it;

229 (v) cooperate with studies and research relating to air pollution and its control,
230 abatement, and prevention;

231 (vi) subject to Subsection (3), upon request, consult concerning the following with any
232 person proposing to construct, install, or otherwise acquire an air contaminant source in Utah:

233 (A) the efficacy of any proposed control device or proposed control system for the
234 source; or

235 (B) the air pollution problem that may be related to the source, device, or system;

236 (vii) accept, receive, and administer grants or other funds or gifts from public and
237 private agencies, including the federal government, for the purpose of carrying out any of the
238 functions of this chapter;

239 (viii) subject to Subsection [19-2-104\(3\)\(b\)\(i\)](#), settle or compromise any civil action
240 initiated by the division to compel compliance with this chapter or the rules made under this
241 chapter; or

242 (ix) as authorized by the board and subject to the provisions of this chapter, exercise all
243 incidental powers necessary to carry out the purposes of this chapter, including certification to
244 any state or federal authorities for tax purposes the fact of construction, installation, or

245 acquisition of any facility, land, building, machinery, or equipment or any part of them, in
246 conformity with this chapter.

247 (3) A consultation described in Subsection (2)(b)(vi) does not relieve a person from the
248 requirements of this chapter, the rules adopted under this chapter, or any other provision of
249 law.

250 Section 3. Section **19-2-107.5** is enacted to read:

251 **19-2-107.5. Wood burning.**

252 (1) The division shall create a:

253 (a) public awareness campaign on the effects of wood burning on air quality,
254 specifically targeting nonattainment areas; and

255 (b) program to assist an individual to convert a dwelling to a natural gas or other clean
256 fuel heating source, as funding allows, if the individual:

257 (i) lives in a dwelling where a wood burning stove is the sole source of heat; and

258 (ii) is on the list of registered sole heating source homes.

259 (2) The division may seek private donations and federal sources of funding to
260 supplement any funds appropriated by the Legislature to fulfill Subsection (1)(b).

261 (3) The director shall, as funding allows, hire part-time temporary or contract
262 employees to investigate reports of wood burning on days when wood burning is prohibited.

263 Section 4. **Appropriation.**

264 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for
265 the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money
266 are appropriated from resources not otherwise appropriated, or reduced from amounts
267 previously appropriated, out of the funds or accounts indicated. These sums of money are in
268 addition to amounts previously appropriated for fiscal year 2015.

269 To Department of Environmental Quality - Division of Air Quality

270 From General Fund, one-time \$1,500,000

271 Schedule of programs:

272 Converting sole-source homes \$1,500,000

273 To Department of Environmental Quality - Division of Air Quality

274 From General Fund, one-time \$250,000

275 Schedule of programs:

276	<u>Education campaign on wood burning</u>	<u>\$250,000</u>
277	<u>To Department of Environmental Quality - Division of Air Quality</u>	
278	<u>From General Fund, one-time</u>	<u>\$50,000</u>
279	<u>Schedule of programs:</u>	
280	<u>Equipment</u>	<u>\$50,000</u>
281	<u>To Department of Environmental Quality - Division of Air Quality</u>	
282	<u>From General Fund, ongoing</u>	<u>\$250,000</u>
283	<u>Schedule of programs:</u>	
284	<u>Contract employees</u>	<u>\$250,000</u>
285	<u>Under Section 63J-1-603, the Legislature intends that appropriations provided under</u>	
286	<u>this section not lapse at the close of fiscal year 2015. The use of any nonlapsing funds is</u>	
287	<u>limited to the purposes of converting sole-source homes to a natural gas heating source, as</u>	
288	<u>described in Section 19-2-107.5, promoting public awareness of the effects of wood burning on</u>	
289	<u>air quality, and hiring and equipping temporary contract employees to investigate reports of</u>	
290	<u>wood burning.</u>	

Legislative Review Note
as of 2-20-14 12:27 PM

Office of Legislative Research and General Counsel