



UTAH STATE SENATE

UTAH STATE CAPITOL COMPLEX • 320 STATE CAPITOL
P.O. BOX 145115 • SALT LAKE CITY, UTAH 84114-5115 • (801) 538-1035

February 25, 2015

Mr. President:

The Business and Labor Committee reports a favorable recommendation on **S.B. 171**, METAL RECYCLING AMENDMENTS, by Senator S. Jenkins, with the following amendments and recommends it be considered read for the second time and placed on the Consent Calendar.

1. *Page 1, Lines 12 through 16:*

- 12 ▶ states that a person who recycles an engine block is not required to remove the
used
13 oil filter on that engine block;
14 ▶ { ~~states that a local board of health may not regulate a crusher,
dismantler, or scrap~~
15 ~~metal processor;~~ } and
16 ▶ makes technical changes.

2. *Page 1, Lines 22 through 24:*

- 22 AMENDS:
23 19-6-706, as last amended by Laws of Utah 2012, Chapter 360
24 { ~~26A-1-121, as last amended by Laws of Utah 2012, Chapter 307~~ }

Bill Number



SB0171

Action Class



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Action Code



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3. Page 4, Line 100 through Page 6, Line 163:

100 {~~Section 2. Section 26A-1-121 is amended to read:~~
101 ~~—26A-1-121. Standards and regulations adopted by local board -- Local~~
102 ~~standards~~
103 ~~not more stringent than federal or state standards -- Exceptions for written findings~~
104 ~~=~~
105 ~~Administrative and judicial review of actions:~~
106 ~~—(1) (a) The board may make standards and regulations:~~
107 ~~—(i) not in conflict with rules of the Departments of Health and Environmental~~
108 ~~Quality;~~
109 ~~and~~
110 ~~—(ii) necessary for the promotion of public health, environmental health quality,~~
111 ~~injury~~
112 ~~control, and the prevention of outbreaks and spread of communicable and infectious~~
113 ~~diseases.~~
114 ~~—(b) The standards and regulations under Subsection (1)(a):~~
115 ~~—(i) supersede existing local standards, regulations, and ordinances pertaining to~~
116 ~~similar~~
117 ~~subject matter; and~~
118 ~~—(ii) except as provided under Subsection (1)(c) and except where specifically~~
119 ~~allowed~~
120 ~~by federal law or state statute, may not be more stringent than those established by~~
121 ~~federal law,~~
122 ~~state statute, or administrative rules adopted by the Utah Department of Health in~~
123 ~~accordance~~
124 ~~with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~
125 ~~—(c) (i) [The] Except as provided in Subsection (1)(c)(iii), the board may make~~
126 ~~standards~~
127 ~~and regulations more stringent than corresponding federal law, state statute, or~~
128 ~~state~~
129 ~~administrative rules for the purposes described in Subsection (1)(a), only if the~~
130 ~~board makes a~~
131 ~~written finding after public comment and hearing and based on evidence in the~~
132 ~~record, that~~
133 ~~corresponding federal laws, state statutes, or state administrative rules are not~~

adequate to
121 ~~protect public health and the environment of the state.~~
122 ~~—(ii) The findings shall address the public health information and studies~~
~~contained in~~
123 ~~the record, which form the basis for the board's conclusion.~~
124 ~~—(iii) The board may not regulate a:~~
125 ~~—(A) crusher, as defined in Subsection 41-3-102(7);~~
126 ~~—(B) dismantler, as defined in Subsection 41-3-102(9); or~~
127 ~~—(C) scrap metal processor, as defined in Subsection 76-6-1402(11).~~
128 ~~—(d) The board shall provide public hearings prior to the adoption of any~~
~~regulation or~~
129 ~~standard. Notice of any public hearing shall be published at least twice throughout~~
~~the county~~
130 ~~or counties served by the local health department. The publication may be in one or~~
~~more~~
131 ~~newspapers, if the notice is provided in accordance with this Subsection (1)(d).~~
132 ~~—(e) The hearings may be conducted by the board at a regular or special~~
~~meeting, or the~~
133 ~~board may appoint hearing officers who may conduct hearings in the name of the~~
~~board at a~~
134 ~~designated time and place.~~
135 ~~—(f) A record or summary of the proceedings of a hearing shall be taken and~~
~~filed with~~
136 ~~the board.~~
137 ~~—(2) (a) A person aggrieved by an action or inaction of the local health~~
~~department~~
138 ~~relating to the public health shall have an opportunity for a hearing with the local~~
~~health officer~~
139 ~~or a designated representative of the local health department. The board shall grant~~
~~a~~
140 ~~subsequent hearing to the person upon the person's written request.~~
141 ~~—(b) In an adjudicative hearing, a member of the board or the hearing officer~~
~~may~~
142 ~~administer oaths, examine witnesses, and issue notice of the hearings or subpoenas~~
~~in the name~~
143 ~~of the board requiring the testimony of witnesses and the production of evidence~~

relevant to a
144 ~~matter in the hearing. The local health department shall make a written record of~~
~~the hearing;~~
145 ~~including findings of facts and conclusions of law.~~
146 ~~—(c) Judicial review of a final determination of the local board may be secured~~
~~by a~~
147 ~~person adversely affected by the final determination, or by the Departments of~~
~~Health or~~
148 ~~Environmental Quality, by filing a petition in the district court within 30 days after~~
~~receipt of~~
149 ~~notice of the board's final determination.~~
150 ~~—(d) The petition shall be served upon the secretary of the board and shall state~~
~~the~~
151 ~~grounds upon which review is sought.~~
152 ~~—(e) The board's answer shall certify and file with the court all documents and~~
~~papers~~
153 ~~and a transcript of all testimony taken in the matter together with the board's~~
~~findings of fact;~~
154 ~~conclusions of law, and order.~~
155 ~~—(f) The appellant and the board are parties to the appeal.~~
156 ~~—(g) The Departments of Health and Environmental Quality may become a~~
~~party by~~
157 ~~intervention as in a civil action upon showing cause.~~
158 ~~—(h) A further appeal may be taken to the Court of Appeals under Section~~
~~78A-4-103.~~

159 ~~—(3) Nothing in the provisions of Subsection (1)(b)(ii) or (c), shall limit the ability~~
of a
160 ~~local health department board to make standards and regulations in accordance~~
with Subsection
161 ~~(1)(a) for:~~
162 ~~—(a) emergency rules made in accordance with Section 63G-3-304; or~~
163 ~~—(b) items not regulated under federal law, state statute, or state administrative~~
rule.}

Respectfully,

Curtis S. Bramble
Committee Chair

Voting: 4-0-3

4 SB0171.SC1.wpd bhowe/BRH RF/ARG 2/25/15 5:51 pm