

WOOD BURNING STOVES AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Fred C. Cox

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts and amends language in the Air Conservation Act.

Highlighted Provisions:

This bill:

- ▶ requires the Air Quality Board to follow certain procedures if it adopts an administrative rule that differs from federal regulation; and
- ▶ permits a person to transfer, sell, supply, or install a wood burning stove that is not certified by the United States Environmental Protection Agency if the transfer, sale, supply, or installation is in accordance with the federal Clean Air Act.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-2-104, as last amended by Laws of Utah 2015, Chapter 154

19-2-107.5, as last amended by Laws of Utah 2015, Chapter 416

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

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



28 **19-2-104. Powers of board.**

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

31 (a) regarding the control, abatement, and prevention of air pollution from all sources
32 and the establishment of the maximum quantity of air pollutants that may be emitted by an air
33 pollutant source;

34 (b) establishing air quality standards;

35 (c) requiring persons engaged in operations that result in air pollution to:

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

37 (ii) file periodic reports containing information relating to the rate, period of emission,
38 and composition of the air pollutant; and

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

41 (d) (i) implementing:

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

44 (B) 40 C.F.R. Part 763, Asbestos; and

45 (C) 40 C.F.R. Part 61, National Emission Standards for Hazardous Air Pollutants,
46 Subpart M, National Emission Standard for Asbestos; and

47 (ii) reviewing and approving asbestos management plans submitted by local education
48 agencies under the Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency
49 Response, 15 U.S.C. 2601 et seq.;

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

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

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

57 (h) with the approval of the governor, implementing in air quality nonattainment areas
58 employer-based trip reduction programs applicable to businesses having more than 100

59 employees at a single location and applicable to federal, state, and local governments to the
60 extent necessary to attain and maintain ambient air quality standards consistent with the state
61 implementation plan and federal requirements under the standards set forth in Subsection (2);

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

65 (j) to implement the requirements of Section 19-2-107.5.

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

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

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

70 (3) (a) The board may:

71 (i) hold a hearing that is not an adjudicative proceeding relating to any aspect of, or
72 matter in, the administration of this chapter;

73 (ii) recommend that the director:

74 (A) issue orders necessary to enforce the provisions of this chapter;

75 (B) enforce the orders by appropriate administrative and judicial proceedings;

76 (C) institute judicial proceedings to secure compliance with this chapter; or

77 (D) advise, consult, contract, and cooperate with other agencies of the state, local
78 governments, industries, other states, interstate or interlocal agencies, the federal government,
79 or interested persons or groups; and

80 (iii) establish certification requirements for asbestos project monitors, which shall
81 provide for experience-based certification of a person who:

82 (A) receives relevant asbestos training, as defined by rule; and

83 (B) has acquired a minimum of 1,000 hours of asbestos project monitoring related
84 work experience.

85 (b) The board shall:

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

87 (A) review a settlement negotiated by the director in accordance with Subsection
88 19-2-107(2)(b)(viii) that requires a civil penalty of \$25,000 or more; and

89 (B) approve or disapprove the settlement;

- 90 (ii) encourage voluntary cooperation by persons and affected groups to achieve the
- 91 purposes of this chapter;
- 92 (iii) meet the requirements of federal air pollution laws;
- 93 (iv) by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
- 94 Act, establish work practice and certification requirements for persons who:
- 95 (A) contract for hire to conduct demolition, renovation, salvage, encapsulation work
- 96 involving friable asbestos-containing materials, or asbestos inspections if:
- 97 (I) the contract work is done on a site other than a residential property with four or
- 98 fewer units; or
- 99 (II) the contract work is done on a residential property with four or fewer units where a
- 100 tested sample contained greater than 1% of asbestos;
- 101 (B) conduct work described in Subsection (3)(b)(iv)(A) in areas to which the general
- 102 public has unrestrained access or in school buildings that are subject to the federal Asbestos
- 103 Hazard Emergency Response Act of 1986;
- 104 (C) conduct asbestos inspections in facilities subject to 15 U.S.C. 2601 et seq., Toxic
- 105 Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response; or
- 106 (D) conduct lead-based paint inspections in facilities subject to 15 U.S.C. 2601 et seq.,
- 107 Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction;
- 108 (v) establish certification requirements for a person required under 15 U.S.C. 2601 et
- 109 seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to
- 110 be accredited as an inspector, management planner, abatement project designer, asbestos
- 111 abatement contractor and supervisor, or an asbestos abatement worker;
- 112 (vi) establish certification procedures and requirements for certification of the
- 113 conversion of a motor vehicle to a clean-fuel vehicle, certifying the vehicle is eligible for the
- 114 tax credit granted in Section [59-7-605](#) or [59-10-1009](#);
- 115 (vii) establish certification requirements for a person required under 15 U.S.C. 2601 et
- 116 seq., Toxic Control Act, Subchapter IV - Lead Exposure Reduction, to be accredited as an
- 117 inspector, risk assessor, supervisor, project designer, abatement worker, renovator, or dust
- 118 sampling technician; and
- 119 (viii) assist the State Board of Education in adopting school bus idling reduction
- 120 standards and implementing an idling reduction program in accordance with Section

121 41-6a-1308.

122 (4) [A] Except as provided in Section 19-2-106, a rule adopted under this chapter shall
123 be consistent with applicable provisions of federal laws~~[, if any,]~~ or regulations, including laws
124 or regulations relating to control of motor vehicles or motor vehicle emissions.

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

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

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

132 (ii) the testing is for:

133 (A) a sprayed-on or painted on ceiling treatment that contained or may contain asbestos
134 fiber;

135 (B) asbestos cement siding or roofing materials;

136 (C) resilient flooring products including vinyl asbestos tile, sheet vinyl products,
137 resilient flooring backing material, whether attached or unattached, and mastic;

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

139 (E) vermiculite type insulation materials.

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

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

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

144 (7) The board may not issue, amend, renew, modify, revoke, or terminate any of the
145 following that are subject to the authority granted to the director under Section 19-2-107 or
146 19-2-108:

147 (a) a permit;

148 (b) a license;

149 (c) a registration;

150 (d) a certification; or

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

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

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

156 Section 2. Section **19-2-107.5** is amended to read:

157 **19-2-107.5. Solid fuel burning.**

158 (1) The division shall create a:

159 (a) public awareness campaign, in consultation with representatives of the solid fuel
160 burning industry, the healthcare industry, and members of the clean air community, on best
161 wood burning practices and the effects of wood burning on air quality, specifically targeting
162 nonattainment areas; and

163 (b) program to assist an individual to convert a dwelling to a natural gas, propane, or
164 wood pellet heating source or a wood burning stove certified by the United States
165 Environmental Protection Agency, as funding allows, if the individual:

- 166 (i) lives in a dwelling where a wood burning stove is the sole source of heat; and
- 167 (ii) is on the list of registered sole heating source homes.

168 (2) (a) The division may not impose a burning ban prohibiting burning during a
169 specified seasonal period of time.

170 (b) Notwithstanding Subsection (2)(a), the division shall:

- 171 (i) allow burning during local emergencies and utility outages; and
- 172 (ii) provide for exemptions, through registration with the division, for:

173 (A) devices that are sole sources of heat; or

174 (B) locations where natural gas service is limited or unavailable.

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

177 (4) A person may transfer, sell, supply, or install a wood burning stove that is not
178 certified by the United States Environmental Protection Agency if the transfer, sale, supply, or
179 installation is in accordance with the federal Clean Air Act.