

HB0140S01 compared with HB0140

~~text~~ shows text that was in HB0140 but was deleted in HB0140S01.

Inserted text shows text that was not in HB0140 but was inserted into HB0140S01.

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Representative Timothy D. Hawkes proposes the following substitute bill:

AIR QUALITY TECHNICAL AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Timothy D. Hawkes

Senate Sponsor: _____

LONG TITLE

General Description:

This bill ~~moves two sections of~~ modifies the Environmental Quality Code.

Highlighted Provisions:

This bill:

- ▶ clarifies the definition of "pollution control facility";
- ▶ moves two sections of the Environmental Quality Code; and
- ▶ creates a new chapter in the Environmental Quality Code.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

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AMENDS:

19-12-102, as last amended by Laws of Utah 2015, Chapter 154

ENACTS:

19-2a-101, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

19-2a-102, (Renumbered from 19-2-128, as enacted by Laws of Utah 2017, Chapter 140)

19-2a-103, (Renumbered from 19-2-129, as enacted by Laws of Utah 2017, Chapter 395)

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

Section 1. Section **19-2a-101** is enacted to read:

CHAPTER 2a. AIR QUALITY - SPECIAL PROVISIONS

19-2a-101. Title.

This chapter is known as "Air Quality - Special Provisions."

Section 2. Section **19-2a-102**, which is renumbered from Section 19-2-128 is renumbered and amended to read:

~~[19-2-128].~~ **19-2a-102. Air Quality Policy Advisory Board created --**

Composition -- Responsibility -- Terms of office -- Compensation.

(1) There is created the Air Quality Policy Advisory Board consisting of the following 10 voting members:

- (a) two members of the Senate, appointed by the president of the Senate;
- (b) three members of the House of Representatives, appointed by the speaker of the House of Representatives;
- (c) the director;
- (d) one representative of industry interests, appointed by the president of the Senate;
- (e) one representative of business or economic development interests, appointed by the speaker of the House of Representatives, who has expertise in air quality matters;
- (f) one representative of the academic community, appointed by the governor, who has expertise in air quality matters; and
- (g) one representative of a nongovernmental organization, appointed by the governor,

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who:

- (i) represents community interests;
 - (ii) does not represent industry or business interests; and
 - (iii) has expertise in air quality matters.
- (2) The Air Quality Policy Advisory Board shall:
- (a) seek the best available science to identify legislative actions to improve air quality;
 - (b) identify and prioritize potential legislation and funding that will improve air

quality; and

(c) make recommendations to the Legislature on how to improve air quality in the state.

(3) (a) Except as required by Subsection (3)(b), members appointed under Subsections (1)(d), (e), (f), and (g) are appointed to serve four-year terms.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor, president of the Senate, and speaker of the House of Representatives shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members are staggered so that approximately half of the advisory board is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(4) The advisory board shall elect one member to serve as chair of the advisory board for a term of one year.

(5) Compensation for a member of the advisory board who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(6) A member of the advisory board who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and

63A-3-107.

(7) The department shall provide staff support for the advisory board.

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Section 3. Section **19-2a-103**, which is renumbered from Section 19-2-129 is renumbered and amended to read:

~~[19-2-129]~~. **19-2a-103. Gasoline vapor recovery -- Penalties.**

(1) As used in this section:

(a) "Gasoline cargo tank" means a tank that:

- (i) is intended to hold gasoline;
- (ii) has a capacity of 1,000 gallons or more; and
- (iii) is attached to or intended to be drawn by a motor vehicle.

(b) "Operator" means an individual who controls a motor vehicle:

- (i) to which a gasoline cargo tank is attached; or
- (ii) that draws a gasoline cargo tank.

(c) "Underground storage tank" means the same as that term is defined in Section 19-6-102.

(2) The operator of a gasoline cargo tank shall comply with requirements of this section if the operator:

- (a) permits the loading of gasoline into the gasoline cargo tank; or
- (b) loads an underground storage tank with gasoline from the gasoline cargo tank.

(3) Except as provided in Subsection (6), the operator of a gasoline cargo tank may permit the loading of gasoline into a tank described in Subsection (2) or load an underground storage tank with gasoline from the gasoline cargo tank described in Subsection (1) only if:

(a) emissions from the tank that dispenses 10,000 gallons or more in any one calendar month are controlled by the use of:

(i) a properly installed and maintained vapor collection and control system that is equipped with fittings that:

- (A) make a vapor-tight connection; and
- (B) prevent the release of gasoline vapors by automatically closing upon disconnection;

and

(ii) submerged filling or bottom filling methods; and

(b) the resulting vapor emitted into the air does not exceed the levels described in Subsection (4).

(4) Vapor emitted into the air as a result of the loading of a tank under Subsection (3)

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may not exceed 0.640 pounds per 1,000 gallons transferred.

(5) (a) The department may fine an operator who violates this section:

(i) up to \$1,000 for a first offense; or

(ii) up to \$2,000 for a second offense.

(b) An operator who violates this section is guilty of a class C misdemeanor for a third or subsequent offense.

(6) If a facility at which an underground storage tank is located does not have the equipment necessary for an operator of a gasoline cargo tank to comply with Subsection (3), the operator is excused from the requirements of Subsections (3) and (4) and may not be fined or penalized under Subsection (5).

†

Legislative Review Note

Office of Legislative Research and General Counsel Section 4. Section 19-12-102 is amended to read:

19-12-102. Definitions.

As used in this chapter:

(1) "Air pollutant" means the same as that term is defined in Section 19-2-102.

(2) "Air pollutant source" means the same as that term is defined in Section 19-2-102.

(3) "Air pollution" means the same as that term is defined in Section 19-2-102.

(4) "Director" means:

(a) for purposes of an application or certification under this chapter related to air pollution, the director of the Division of Air Quality; or

(b) for purposes of an application or certification under this chapter related to water pollution, the director of the Division of Water Quality.

(5) (a) "Freestanding pollution control property" means tangible personal property located in the state, regardless of whether a purchaser purchases the tangible personal property voluntarily or to comply with a requirement of a governmental entity, if:

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(i) the primary purpose of the tangible personal property is the prevention, control, or reduction of air or water pollution by:

(A) the disposal or elimination of, or redesign to eliminate, waste, and the use of treatment works for industrial waste; or

(B) the disposal, elimination, or reduction of, or redesign to eliminate or reduce, air pollutants, air pollution, or air contamination sources, and the use of one or more air cleaning devices; and

(ii) the tangible personal property is not used at, in the construction of, or incorporated into a pollution control facility.

(b) "Freestanding pollution control property" does not include:

(i) a consumable:

(A) chemical that is not reusable;

(B) cleaning material that is not reusable; or

(C) supply that is not reusable;

(ii) the following used for human waste:

(A) a septic tank; or

(B) other property;

(iii) property installed, constructed, or used for the moving of sewage to a collection facility of a public or quasi-public sewerage system;

(iv) the following used for the comfort of personnel:

(A) an air conditioner;

(B) a fan; or

(C) an item similar to Subsection (5)(b)(iv)(A) or (B); or

(v) office equipment or an office supply if the primary purpose of the office equipment or office supply is not the prevention, control, or reduction of air or water pollution by:

(A) the disposal or elimination of, or redesign to eliminate, waste, and the use of treatment works for industrial waste; or

(B) the disposal, elimination, or reduction of, or redesign to eliminate or reduce, air pollutants, air pollution, or air contamination sources, and the use of one or more air cleaning devices.

(6) (a) "Pollution control facility" means real property in the state, regardless of

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whether a purchaser purchases the real property voluntarily or to comply with a requirement of a governmental entity, if the primary purpose of the real property is the prevention, control, or reduction of air pollution or water pollution by:

(i) the disposal or elimination of, or redesign to eliminate[:], waste and the use of treatment works for industrial waste; or

~~[(A) waste; and]~~

~~[(B) the use of treatment works for industrial waste; or]~~

(ii) (A) the disposal, elimination, or reduction of, or redesign to eliminate or reduce, air pollutants, air pollution, or air contamination sources; and

(B) the use of one or more air cleaning devices.

(b) "Pollution control facility" includes:

(i) an addition to real property described in Subsection (6)(a);

(ii) the reconstruction of real property described in Subsection (6)(a); or

(iii) an improvement to real property described in Subsection (6)(a).

(c) "Pollution control facility" does not include:

(i) a consumable:

(A) chemical that is not reusable;

(B) cleaning material that is not reusable; or

(C) supply that is not reusable;

(ii) the following used for human waste:

(A) a septic tank; or

(B) another facility;

(iii) property installed, constructed, or used for the moving of sewage to a collection facility of a public or quasi-public sewerage system;

(iv) the following used for the comfort of personnel:

(A) an air conditioner;

(B) a fan; or

(C) an item similar to Subsection (6)(c)(iv)(A) or (B); or

(v) office equipment or an office supply if the primary purpose of the office equipment or office supply is not the prevention, control, or reduction of air or water pollution by:

(A) the disposal or elimination of, or redesign to eliminate waste, and the use of

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treatment works for industrial waste; or

(B) the disposal, elimination, or reduction of, or redesign to eliminate or reduce, air pollutants, air pollution, or air contamination sources, and the use of one or more air cleaning devices.

(7) "Treatment works" means the same as that term is defined in Section 19-5-102.

(8) "Waste" means the same as that term is defined in Section 19-5-102.

(9) "Water pollution" has the same meaning as "pollution" under Section 19-5-102.