

ENROLLED SENATE
BILL NO. 104

By: Muegge of the Senate

and

Holt of the House

An Act relating to the Oklahoma Clean Air Act;
Amending Section 4, Chapter 215, O.S.L. 1992 (63
O.S. Supp. 1992, Section 1-1805.1), which
relates to the Oklahoma Clean Air Act;
authorizing State Department of Health to
establish a permitting program with certain
provisions; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 4, Chapter 215, O.S.L.
1992 (63 O.S. Supp. 1992, Section 1-1805.1), is amended to read as
follows:

Section 1-1805.1 The Department is hereby designated the
administrative agency for the Oklahoma Clean Air Act for the state.
The Department is empowered to:

1. Establish, in accordance with its provisions, those programs
specified elsewhere in this act;

2. Establish, in accordance with this act, a permitting program
for the state which will contain the flexible source operation
provisions required by Section 502(b)(10) of the Federal Clean Air
Act Amendments of 1990;

3. Prepare and develop a general plan for proper air quality
management in the state in accordance with the Oklahoma Clean Air
Act;

~~3.~~ 4. Enforce rules ~~and regulations~~ of the Board and orders of
the Department and the Council;

~~4.~~ 5. Advise, consult and cooperate with other agencies of the
state, towns, cities and counties, industries, other states and the
federal government, and with affected groups in the prevention and
control of new and existing air contamination sources within the
state;

~~5.~~ 6. Encourage and conduct studies, seminars, workshops,
investigations and research relating to air pollution and its
causes, effects, prevention, control and abatement;

~~6.~~ 7. Collect and disseminate information relating to air
pollution, its prevention and control;

~~7.~~ 8. Encourage voluntary cooperation by persons, towns, cities
and counties, or other affected groups in restoring and preserving a
reasonable degree of purity of air within the state;

~~8.~~ 9. Represent the State of Oklahoma in any and all matters
pertaining to plans, procedures or negotiations for the interstate
compacts in relation to the control of air pollution;

~~9.~~ 10. Provide such technical, scientific or other services,
including laboratory and other facilities, as may be required for

the purpose of carrying out the provisions of the Oklahoma Clean Air Act, from funds available for such purposes;

~~10~~ 11. Employ and compensate, within funds available therefor, such consultants and technical assistants and such other employees on a full- or part-time basis as may be necessary to carry out the provisions of this act and prescribe their powers and duties;

~~11.~~ 12. Accept and administer grants or other funds or gifts for the purpose of carrying out any of the functions of the Oklahoma Clean Air Act;

~~12.~~ 13. Budget and receive duly appropriated monies and all other monies available for expenditures to carry out the provisions and purposes of the Oklahoma Clean Air Act;

~~13.~~ 14. Bring appropriate court action to enforce this act, including final orders on determinations and obtaining injunctions or other proper relief in the district court of the county where any alleged violation occurs or relief is determined necessary. The Department, in furtherance of its statutory powers, and notwithstanding any provision of law to the contrary, shall have the independent authority to file an action under this act in district court. Such action shall be brought in the name of the State Department of Health;

~~14.~~ 15. Take such action as may be necessary to abate the alleged pollution upon receipt of evidence that a source of pollution or a combination of sources of pollution is presenting an immediate, imminent and substantial endangerment to the health of persons;

~~15.~~ 16. Recommend rules and regulations to the Department of Public Safety, to the extent necessary and practicable for periodic inspection and testing of motor vehicles to enforce compliance with applicable emission standards;

~~16.~~ 17. Periodically enter and inspect at reasonable times or during regular business hours, any source, facility or premises permitted or regulated by this act, for the purpose of obtaining samples or determining compliance with this act or any rule, ~~regulation, permit condition or standard~~ promulgated or permit condition prescribed pursuant to this act, or to examine any records kept or required to be kept pursuant to this act. Such inspections shall be conducted with reasonable promptness and shall be confined to those areas, sources, facilities or premises reasonably expected to emit, control, or contribute to the emission of any air contaminant;

~~17.~~ 18. Require the submission or the production and examination, within a reasonable amount of time, of any information, record, document, test or monitoring results or emission data, including trade secrets, as that term is defined in Section 1732 of Title 21 of the Oklahoma Statutes, necessary to determine compliance with this act or any rule, ~~permit condition, order or standard~~ promulgated, permit condition prescribed or order issued pursuant to this act. Provided, however, the Department shall hold and keep as confidential any information declared by the provider to be a trade secret and may only release such information upon authorization by the person providing such information, or as directed by court order. Any documents submitted pursuant to this act and declared to be trade secrets, to be so considered, must be plainly labeled by the provider, and be in a form whereby the confidential information may be easily removed intact without disturbing the continuity of any remaining documents. The remaining document, or documents, as submitted, shall contain a notation indicating, at the place where the particular information was originally located, that confidential information has been removed. The term "trade secret", for the

purpose of this act, shall not be construed to include data concerning the amount, emission rate or identification of any air contaminant emitted by any source, nor shall it include the contents of any proposed or final permit. Nothing in this section shall preclude an in camera examination of confidential information by a hearing examiner during the course of a contested hearing;

~~18.~~ 19. Maintain and update at least annually an inventory of air emissions from stationary sources;

~~19.~~ 20. Accept any authority delegated from the federal government necessary to carry out any portion of this act, and delegate to any city-county health department that state authority necessary to implement the state program within the city-county jurisdiction.

- a. Such delegation from the state shall only be made upon the condition that the local authority will maintain a program consistent with the state program. Said delegation shall include the authority and the responsibility to enforce this act and ~~regulations~~ rules of the Board, to operate a permitting program, and the authority to collect fees for sources within their jurisdiction and to use such fees in accordance with the purposes set forth in this act. Delegation of authority to collect fees shall include the authority and duty to establish a special fund in the manner provided for in the Oklahoma Air Quality Control Fund established elsewhere in this act or, alternatively, that the collected funds remain with the city-county health department to be used in accordance with the provisions of this act at that location; provided, however, that the Department shall require or perform, at least yearly, an audit verifying the expenditure of such funds for the purposes set forth herein.
- b. Delegation from the state shall be made by written agreement and reviewed on a yearly basis. Said agreement shall contain reasonable terms and conditions as may be necessary to assure compliance with the requirements of this act and the Federal Clean Air Act, 42 U.S.C., Section 7401 et seq. Any delegation by the state shall not, however, deprive it of primary or concurrent jurisdiction nor shall it be construed to include any powers of the Council or the Board.
- c. A final order in any administrative action brought by either the state or the city-county health department shall preclude an administrative action by the other for the same violation; and

~~20.~~ 21. Carry out all other duties, requirements and responsibilities necessary and proper for the implementation of this act and fulfilling the requirements of the Federal Clean Air Act.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 23rd day of February, 1993.

President of the Senate

Passed the House of Representatives the 5th day of April, 1993.

Speaker of the House of
Representatives