

CS for SB 306

THE STATE SENATE
Tuesday, February 11, 2003

Committee Substitute for
Senate Bill No. 306

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 306 - By: EASLEY of the Senate and LEIST of the House.

An Act relating to environment and natural resources; amending 27A O.S. 2001, Section 2-5-111, which relates to the Oklahoma Air Quality Act; removing requirement for certain enforcement hearing before the Air Quality Council; providing for hearing before Administrative Law Judge; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 27A O.S. 2001, Section 2-5-111, is amended to read as follows:

Section 2-5-111. A. The Department shall have the authority, pursuant to rules of the Board, to implement a field citation program establishing appropriate violations for which field citations assessing administrative penalties may be issued. No citation shall assess a penalty in excess of One Thousand Dollars (\$1,000.00) per day, or part of a day, per violation, nor exceed a combined limit of Five Thousand Dollars (\$5,000.00) per day.

Provided further, no field citation shall be valid unless reviewed for legal sufficiency within ten (10) days of issuance.

1. Any person to whom a field citation is issued may elect to pay the penalty assessment or to request an enforcement hearing.

1 The assessment shall become final and payable unless the request for
2 hearing is made in writing within fifteen (15) days of the citation.
3 Upon such request, the ~~enforcement hearing shall be promptly set~~
4 ~~before the Department unless the respondent requests that the~~
5 ~~enforcement hearing be set before the Council.~~ In such case the
6 Department shall promptly schedule the enforcement hearing before
7 ~~the Council~~ an Administrative Law Judge of the Department and notify
8 the respondent.

9 2. Payment of a penalty required by a field citation shall not
10 be construed as an admission of liability or guilt and shall
11 preclude further assessment of administrative penalties for the same
12 violation. It shall not, however, be a defense to further
13 enforcement by the Department for a subsequent violation or to an
14 assessment of the statutory maximum penalty for criminal violations
15 pursuant to other authority in the Oklahoma Clean Air Act.

16 3. In determining the amount of any penalty to be assessed
17 pursuant to this section, the person issuing a field citation shall
18 take into account the seriousness of the violation, any good faith
19 efforts to comply with applicable requirements and other factors
20 determined by rule to be relevant.

21 B. Qualifications of persons authorized to issue field
22 citations shall be set by the Department, but shall include as a
23 minimum:

1 1. Completion of a special course of study developed by the
2 Department specifically for the training of persons for this
3 purpose;

4 2. A minimum of three (3) years' experience in the air quality
5 service enforcement program;

6 3. A job classification commensurate with the duties and
7 responsibilities of the individual; and

8 4. Approval by the Executive Director.

9 SECTION 2. This act shall become effective July 1, 2003.

10 SECTION 3. It being immediately necessary for the preservation
11 of the public peace, health and safety, an emergency is hereby
12 declared to exist, by reason whereof this act shall take effect and
13 be in full force from and after its passage and approval.

14 COMMITTEE REPORT BY: COMMITTEE ON ENERGY, ENVIRONMENT &
15 COMMUNICATIONS, dated 2-6-03 - DO PASS, As Amended.