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Sub. S. B. No. 105

SENATORS Hottinger, Spada, Wachtmann, Mumper

REPRESENTATIVES Hollister, Cates, Aslanides, Lendrum, Hagan, Setzer,
Carmichael, Niehaus, Evans, Schmidt, G. Smith, Jolivette, Calvert, Webster,
Schaffer, Otterman, Clancy, Buehrer, Collier, Fessler, Damschroder, Gilb,
Coates, Faber, Seaver, Reinhard, Young, Seitz, Schneider

A B I L L

To amend section 3737.84 and to enact section 3745.31
of the Revised Code to establish a five-year
statute of limitations for actions for civil or
administrative penalties brought under certain
environmental laws, and to exempt certain
activities involving the dispensing of diesel fuel
from the state fire code.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3737.84 be amended and section
3745.31 of the Revised Code be enacted to read as follows:

Sec. 3737.84. (A) The state fire code adopted pursuant to
sections 3737.82 and 3737.83 of the Revised Code shall not contain
any provision as follows:

(1) Relating to the organization or structure of a municipal
or township fire department;

(2) Relating to structural building requirements covered by
the Ohio building code;

(3) ~~Which~~ That would cause an employer, in complying with it, 17
to be in violation ~~with~~ of the "Occupational Safety and Health Act 18
of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, or the "Consumer Product 19
Safety Act of 1972," 86 Stat. 1207, 15 U.S.C.A. 2051; 20

(4) Regulating manufacturers or manufacturing facilities with 21
respect to occupational hazards where they are subject to 22
regulation by the federal occupational safety and health 23
administration; 24

(5) ~~Which~~ That is inconsistent with, or in conflict with, 25
regulations of the federal occupational safety and health 26
administration or the hazardous materials regulations of the 27
hazardous materials regulations board of the federal highway 28
administration, United States department of transportation, or the 29
public utilities commission; 30

(6) ~~Which~~ That establishes a minimum standard of flammability 31
for consumer goods in any area where the "Flammable Fabrics Act," 32
81 Stat. 568 (1967), 15 U.S.C. 1191 authorizes the federal 33
government or any department or agency of the federal government 34
to establish national standards of flammability for consumer 35
goods; 36

(7) ~~Which~~ That establishes a health or safety standard for 37
the use of explosives in mining, for which the federal government 38
through its authorized agency sets health or safety standards 39
pursuant to section 6 of the "Federal Metal and Nonmetallic Mine 40
Safety Act of 1966," 80 Stat. 772, 30 U.S.C. 725, or section 101 41
of the "Federal Coal Mine Health and Safety Act of 1969," 83 Stat. 42
745, 30 U.S.C.A. 811; 43

(8) ~~Which~~ That is inconsistent with, or in conflict with, 44
section 3737.73 or Chapter 3743. of the Revised Code, or the rules 45
adopted pursuant to that chapter; 46

(9)(a) Restricting the dispensing of diesel fuel at a 47

terminal or bulk plant into a motor vehicle that is transporting
petroleum products or equipment essential to the operation of the
terminal or bulk plant, provided that the motor vehicle is owned
or leased by or operated under a contract with a person who has
been issued a motor fuel dealer's license under section 5735.02 of
the Revised Code;

(b) Authorizing the dispensing of any petroleum products at a
terminal or bulk plant from an above ground storage tank at the
terminal or bulk plant to a motor vehicle other than a motor
vehicle that is described in division (A)(9)(a) of this section or
to a member of the general public.

As used in this section, "terminal or bulk plant" means that
portion of a property where petroleum products are received by
tank vessels, pipelines, tank cars, or tank vehicles and are
stored or blended in bulk for the purpose of distributing the
petroleum products via tank vessel, pipeline, tank car, tank
vehicle, portable tank, or container.

(B) No penalty shall be imposed by the fire marshal on any
person for a violation of the state fire code if a penalty has
been imposed or an order issued by the federal government for a
violation of a similar provision contained in or adopted pursuant
to the federal acts referred to in this section, where the facts
which ~~that~~ constitute the violation of the state fire code are the
same as those which ~~that~~ constitute the violation or alleged
violation of the federal act.

Sec. 3745.31. (A) As used in this section, "environmental
law" means sections 903.08, 903.17, and 3737.87 to 3737.882 and
Chapters 3704., 3734., 3745., 3750., 3751., 3752., 3753., 6109.,
and 6111. of the Revised Code; any rule adopted under those
sections or chapters or adopted for the purpose of implementing
those sections or chapters; and any applicable provisions of

Chapter 3767. of the Revised Code when an environmentally related
nuisance action is brought.

(B)(1) Except as provided in division (B)(2) of this section,
any action under any environmental law for civil or administrative
penalties of any kind brought by any agency or department of the
state or by any other governmental authority charged with
enforcing environmental laws shall be commenced within five years
of the time when the agency, department, or governmental authority
actually knew or was informed of the occurrence, omission, or
facts on which the cause of action is based.

(2) If an agency, department, or governmental authority
actually knew or was informed of an occurrence, omission, or facts
on which a cause of action is based prior to the effective date of
this section, the cause of action for civil or administrative
penalties of any kind for the alleged violation shall be commenced
not later than five years after the effective date of this
section.

(C) Division (B) of this section applies only if, during the
time periods established in that division, proper service of
process can be given in accordance with the Rules of Civil
Procedure and jurisdiction of a court in this state can be
obtained.

(D) The time periods established in division (B) of this
section may be tolled by mutual agreement between the enforcing
agency, department, or authority and the person who is subject to
a civil or administrative penalty of any kind under an
environmental law.

(E) When an action seeks injunctive relief or another remedy
in addition to a remedy of civil or administrative penalties of
any kind under an environmental law, division (B) of this section

applies only to the remedy of civil or administrative penalties of
any kind.

(F) Beginning on the first anniversary of the effective date
of this section and for four years thereafter, the director of
environmental protection and the fire marshal shall each annually
submit a report concerning the aggregate number of enforcement
cases that are based on occurrences, omissions, or facts about
which the director or the fire marshal actually knew or was
informed prior to the effective date of this section for which a
cause of action has not been brought pursuant to division (B)(2)
of this section as of the date of the report. The respective
reports submitted by the director and the fire marshal shall only
address the aggregate number of occurrences, omissions, or facts
under environmental laws concerning which the director or fire
marshal has regulatory authority. The respective reports submitted
by the director and the fire marshal shall not include any names,
addresses, or other identifying information. The report shall be
submitted to the speaker of the house of representatives, the
president of the senate, and the chairpersons of the standing
committees of the house of representatives and the senate that are
primarily responsible for considering environmental issues.

Section 2. That existing section 3737.84 of the Revised Code
is hereby repealed.