

**As Reported by the House Energy and Environment Committee**

**124th General Assembly**

**Regular Session**

**2001-2002**

**Sub. S. B. No. 105**

**SENATORS Hottinger, Spada, Wachtmann, Mumper**

**REPRESENTATIVES Hollister, Cates, Aslanides, Lendrum, Hagan, Setzer,**

**Carmichael, Niehaus**

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**A B I L L**

To amend section 3737.84 and to enact section 3745.31 1  
of the Revised Code to establish a five-year 2  
statute of limitations for actions for civil or 3  
administrative penalties brought under certain 4  
environmental laws, and to exempt certain 5  
activities involving the dispensing of diesel fuel 6  
from the state fire code. 7

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

**Section 1.** That section 3737.84 be amended and section 8  
3745.31 of the Revised Code be enacted to read as follows: 9

**Sec. 3737.84.** (A) The state fire code adopted pursuant to 10  
sections 3737.82 and 3737.83 of the Revised Code shall not contain 11  
any provision as follows: 12

(1) Relating to the organization or structure of a municipal 13  
or township fire department; 14

(2) Relating to structural building requirements covered by 15  
the Ohio building code; 16

(3) ~~Which~~ That would cause an employer, in complying with it, 17

to be in violation ~~with~~ of the "Occupational Safety and Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, or the "Consumer Product Safety Act of 1972," 86 Stat. 1207, 15 U.S.C.A. 2051;

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

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

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

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

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

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

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nuisance action is brought.

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(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.

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(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.

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(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.

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(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.

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(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

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any kind. 111

(F) Beginning on the first anniversary of the effective date 112  
of this section and for four years thereafter, the director of 113  
environmental protection and the fire marshal shall each annually 114  
submit a report concerning the aggregate number of enforcement 115  
cases that are based on occurrences, omissions, or facts about 116  
which the director or the fire marshal actually knew or was 117  
informed prior to the effective date of this section for which a 118  
cause of action has not been brought pursuant to division (B)(2) 119  
of this section as of the date of the report. The respective 120  
reports submitted by the director and the fire marshal shall only 121  
address the aggregate number of occurrences, omissions, or facts 122  
under environmental laws concerning which the director or fire 123  
marshal has regulatory authority. The respective reports submitted 124  
by the director and the fire marshal shall not include any names, 125  
addresses, or other identifying information. The report shall be 126  
submitted to the speaker of the house of representatives, the 127  
president of the senate, and the chairpersons of the standing 128  
committees of the house of representatives and the senate that are 129  
primarily responsible for considering environmental issues. 130

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**Section 2.** That existing section 3737.84 of the Revised Code 132  
is hereby repealed. 133