



Sub. S.B. 105

124th General Assembly
(As Passed by the General Assembly)

Sens. Hottinger, Spada, Wachtmann, Mumper

Reps. 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

Effective date: *

ACT SUMMARY

- Generally establishes a five-year statute of limitations for civil actions for civil or administrative penalties of any kind brought under certain environmental laws.
- Provides that if an agency, department, or governmental authority actually knew or was informed of an occurrence, omission, or facts on which a civil action is based prior to the act's effective date, the action for civil or administrative penalties of any kind must be commenced not later than five years after the act's effective date.
- Requires the Director of Environmental Protection and the Fire Marshal to submit annual reports to the General Assembly for five years containing certain information concerning enforcement actions that are based on such prior occurrences, omissions, or facts.
- Prohibits the State Fire Code from including certain requirements restricting the dispensing of diesel fuel at a terminal or bulk plant or authorizing the dispensing of petroleum products at a terminal or bulk

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

plant to motor vehicles other than vehicles owned or leased by a person who has been issued a motor fuel dealer's license or to the general public.

CONTENT AND OPERATION

Statute of limitations

The act provides that any action under any of several specified environmental laws (see below) 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 those environmental laws must 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 (sec. 3745.31(B)(1)). However, 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 act's effective date, the cause of action for civil or administrative penalties of any kind for the alleged violation must be commenced not later than five years after the act's effective date (sec. 3745.31(B)(2)).

The act defines "environmental law" to mean statutes governing the issuance of national pollutant discharge elimination system permits under the Concentrated Animal Feeding Facilities Law, statutes governing petroleum underground storage tanks under the Fire Marshal Law, the Air Pollution Control Law, the Solid, Hazardous, and Infectious Waste Law, the Environmental Protection Agency Law, the Emergency Planning Law, the Hazardous Substances Law, the Cessation of Regulated Operations Law, the Risk Management Program Law, the Safe Drinking Water Law, the Water Pollution Control Law, any rule adopted under those statutes or laws or adopted for the purpose of implementing them, and any applicable provisions of the Nuisance Law when an environmentally related nuisance action is brought (sec. 3745.31(A)).

The time periods established under the act apply only if, during those periods, proper service of process can be given in accordance with the Rules of Civil Procedure and jurisdiction of a court in Ohio can be obtained (sec. 3745.31(C)). In addition, the act provides that the time periods 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 (sec. 3745.31(D)). The act also provides that 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, the act's time periods apply only to the remedy of civil or administrative penalties of any kind (sec. 3745.31(E)).

The act requires that beginning on the first anniversary of its effective date and for four years thereafter, the Director of Environmental Protection and the Fire Marshal in the Department of Commerce 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 act's effective date for which a cause of action has not been brought as of the date of the report. The reports are required to 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 cannot include any names, addresses, or other identifying information. The report must 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. (Sec. 3745.31(F).)

State Fire Code

The act precludes the State Fire Code from containing any provision 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 continuing law. In addition, the act precludes the State Fire Code from including a provision 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 owned or leased by or operated under a contract with a person who has been issued a motor fuel dealer's license under continuing law or to a member of the general public. The act defines "terminal or bulk plant" to mean 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. (Sec. 3737.84(A)(9).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-08-01	p. 351
Reported, S. Energy, Natural Resources, & Environment	11-14-01	p. 1112
Passed Senate (22-8)	11-14-01	pp. 1121-1122



Reported, H. Energy & Environment	03-19-02	pp.	1565-1566
Passed House (82-15)	03-20-02	pp.	1586-1588
Senate concurred in House amendments (22-10)	03-20-02	pp.	1633-1634

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