



Sub. S.B. 105

124th General Assembly
(As Passed by the Senate)

Sens. Hottinger, Spada, Wachtmann, Mumper

BILL 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, except the Office of the Fire Marshal, actually knew or was informed of an occurrence, omission, or facts on which a civil action is based three or more years prior to the bill's effective date, the action for civil or administrative penalties of any kind must be commenced not later than two years after the bill's effective date.
- Provides that if such an action is brought for a violation of statutes or rules governing petroleum underground storage tanks and the Office of the Fire Marshal actually knew or was informed of an occurrence, omission, or facts on which the cause of action is based prior to the bill's effective date, the action must be commenced within five years of the bill's effective date.

CONTENT AND OPERATION

The bill 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, except for the Fire Marshal in the Department of Commerce (see below), 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 three or more years prior to the bill'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 two years after the bill's effective date (sec. 3745.31(B)(2)(a)). For violations of statutes and rules governing petroleum underground storage tanks, the bill provides that if the Office of the Fire Marshal actually knew or was informed of an occurrence, omission, or facts on which the cause of action is based prior to the bill's effective date, the cause of action must be commenced within five years of the bill's effective date (sec. 3745.31(B)(2)(b)).

The bill 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 bill 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 bill 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)). Finally, the bill 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 bill's time periods apply only to the remedy of civil or administrative penalties of any kind (sec. 3745.31(E)).

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) s0105-ps.124/kl	11-14-01	pp. 1121-1122