



S.B. 372

127th General Assembly
(As Passed by the General Assembly)

Sens. Niehaus, Schaffer, Harris, Lehner, Morano, Patton, Roberts, Sawyer, Seitz, Stivers, Turner, Wagoner

Reps. Aslanides, Bacon, Collier, Domenick, Grady, Stebelton, Wachtmann

Effective date: *

ACT SUMMARY

- Extends, until January 1, 2014, the time by which environmental audits must be completed in order to be within the scope of certain privileges and immunities provided under continuing law regarding such audits.
- Declares an emergency.

CONTENT AND OPERATION

Under the Environmental Audit Law, the owner or operator of a facility or property who conducts an environmental audit of one or more activities at the facility or property has a privilege with respect to certain specified items, information, and communications related to and uncovered as a result of the environmental audit. Those items, information, and communications are privileged and are not admissible as evidence or subject to discovery in any civil or administrative proceeding. Further, a person who possesses information as a result of conducting or participating in an environmental audit may not be compelled to testify in a civil or administrative proceeding concerning the privileged portions of the environmental audit. The Environmental Audit Law then specifies that the privilege does not apply to criminal proceedings and in other specified circumstances. Prior law provided that the privilege applied only to information and communications that were part of environmental audits

* 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.

initiated after March 13, 1997, and completed before January 1, 2009. (R.C. 3745.71.)

Continuing law also establishes qualified immunity from any administrative and civil penalties for the owner or operator of a facility or property who conducts an environmental audit. In order to receive the immunity, the owner or operator must voluntarily disclose information contained in or derived from an audit report that concerns an alleged violation of environmental laws to the director of the state agency that has jurisdiction over the violation. Prior law provided that the immunity applied only to information and communications that were part of environmental audits initiated after March 13, 1997, and completed before January 1, 2009. (R.C. 3745.72.)

The act extends the time by which environmental audits must be completed in order to be within the scope of the privilege and immunity provided under continuing law. Under the act, the privilege and immunity so provided apply only to information and communications that are part of environmental audits initiated after March 13, 1997, and completed before January 1, 2014. (R.C. 3745.71(I) and 3745.72(F).)

HISTORY

ACTION	DATE
Introduced	11-13-08
Reported, S. Environment & Natural Resources	12-03-08
Passed Senate (30-0)	12-09-08
Reported, H. Economic Development & Environment	12-16-08
Passed House (73-23)	12-17-08

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