



S.B. 372*

127th General Assembly

(As Reported by H. Economic Development and Environment)

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

BILL 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 existing 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. The privilege so provided applies only to information and communications that are part of environmental audits initiated after March 13, 1997, and completed before January 1, 2009. (R.C. 3745.71.)

Existing law also establishes qualified immunity from any administrative and civil penalties for the owner or operator of a facility or property who conducts

* This analysis was prepared before the report of the House Economic Development and Environment Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

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. The immunity so provided applies only to information and communications that are part of environmental audits initiated after March 13, 1997, and completed before January 1, 2009. (R.C. 3745.72.)

The bill extends the time by which environmental audits must be completed in order to be within the scope of the privilege and immunity provided under existing law. Under the bill, 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).)

Stating that the immediate extension of the deadline is necessary in order to continue the environmental audit program, the bill declares an emergency (Section 3.)

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	---

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