

2/26/91 2/26 2/28 (of 9-14)

SENATE FILE 512
BY COMMITTEE ON ENVIRONMENT
AND ENERGY UTILITIES

(SUCCESSOR TO SSB 170)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to air emission standards and limitations and
2 imposing a fee.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 512

S-3319

1 Amend Senate File 512 as follows:
2 1. Page 1, line 2, by striking the word
3 "subsection" and inserting the following:
4 "subsections".
5 2. Page 1, by inserting after line 9, the
6 following:
7 "NEW SUBSECTION. 9. Adopt rules which provide for
8 the investigation of an air contaminant source, and
9 for submitting an application for the issuance or
10 renewal of a permit under this part, for the effects
11 of the emissions of the air contaminant source on
12 traffic near the source."

By WALLY HORN

S-3319 FILED APRIL 4, 1991

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1 Section 1. Section 455B.133, Code 1991, is amended by
2 adding the following new subsection:

3 NEW SUBSECTION. 8. Adopt rules which require the owner or
4 operator of an air contaminant source to obtain an operating
5 permit prior to operation of the source. The rules shall
6 specify the information required to be submitted with the
7 application for a permit and the conditions under which a
8 permit may be issued, suspended, modified, revoked, or
9 renewed.

3319 > 10 Sec. 2. NEW SECTION. 455B.133A AIR CONTAMINANT SOURCE
11 FEE IMPOSED.

12 The department, pursuant to the federal Clean Air Act of
13 1990, section 502, Pub. L. No. 101-549, shall collect an air
14 contaminant source fee in an amount established by the
15 commission by rule which is at least twenty-five dollars per
16 ton of each regulated pollutant and is sufficient to cover all
17 of the reasonable costs of the permit, monitoring, and
18 inspection program. The moneys collected shall be deposited
19 in the air contaminant source fund and shall be used solely
20 for the costs of the permit, monitoring, and inspection
21 program. Beginning with July 1, 1991, and continuing until
22 the permit fee structure for regulated pollutants is
23 effective, an annual fee of twenty-five dollars per ton for
24 the hazardous air pollutants included in Title III of the
25 federal Clean Air Act of 1990 shall be collected. This fee
26 shall be based on the air emissions for the previous calendar
27 year. The moneys collected shall be deposited in the air
28 contaminant source fund and shall be used solely for the costs
29 of establishing the operating permits issuance program under
30 the federal Clean Air Act of 1990. For hazardous air
31 pollutant emissions reported under section 313 of the federal
32 Emergency Planning and Community Right-to-Know Act (EPCRA),
33 the reported emissions shall be the basis of calculation. For
34 hazardous air pollutants which are not included in section 313
35 of EPCRA, and which are included in Title III of the Clean Air

1 Act of 1990, the fee shall be based on facility estimates of
2 emission during the calendar year of application.

3 Sec. 3. NEW SECTION. 455B.133B AIR CONTAMINANT SOURCE
4 FUND CREATED.

5 An air contaminant source fund is created in the office of
6 the treasurer of state under the control of the department.
7 Moneys received from the fees assessed pursuant to section
8 455B.133A shall be deposited in the fund and shall be used
9 solely to defray the costs related to the permit, monitoring,
10 and inspection program. Notwithstanding section 8.33, any
11 unexpended balance in the fund at the end of each fiscal year
12 shall be retained in the fund. Notwithstanding section 453.7,
13 any interest or earnings on investments from moneys in the
14 fund shall be credited to the fund.

15 Sec. 4. NEW SECTION. 455B.133C EMERGENCY PROCEDURES.

16 Notwithstanding section 455B.133, subsection 4, if the
17 department finds that a substantial danger to public health
18 and welfare exists and that the danger creates an emergency
19 requiring immediate action to protect human health or safety,
20 the commission may adopt, on a case-by-case basis, emission
21 limitations or standards relating to the maximum quantity of
22 air contaminants that may be emitted from any air contaminant
23 source which exceed the standards or limitations promulgated
24 by the administrator of the United States environmental
25 protection agency or the requirements of the federal Clean Air
26 Act as amended to January 1, 1990.

27 Sec. 5. Section 455B.134, subsection 3, unnumbered
28 paragraph 1, Code 1991, is amended to read as follows:

29 Grant, modify, or deny permits for the construction or
30 operation of new or modified air contaminant sources and for
31 related control equipment, and conditional permits for
32 electric power generating facilities subject to chapter 476A
33 and other major stationary sources, subject to the rules
34 adopted by the commission. The department shall furnish
35 necessary application forms for such permits.

1 Sec. 6. Section 455B.134, subsection 3, Code 1991, is
2 amended by adding the following new paragraph e, and
3 relettering the subsequent paragraph:

4 NEW PARAGRAPH. e. An air contaminant source for which a
5 construction permit or conditional permit has been issued
6 shall not be operated unless an operation permit also has been
7 issued for the source. Operation permits shall contain
8 conditions and schedules of compliance necessary to ensure
9 that the air contaminant source will meet all applicable
10 standards. If construction of a new air contaminant source is
11 proposed, an operation permit shall be issued concurrently
12 with the construction permit for the source whenever possible
13 and appropriate.

14 Sec. 7. Section 455B.134, subsection 9, Code 1991, is
15 amended to read as follows:

16 9. Issue orders consistent with rules to cause the
17 abatement or control of air pollution, or to secure compliance
18 with permit conditions. In making the orders, the director
19 shall consider the facts and circumstances bearing upon the
20 reasonableness of the emissions involved, including but not
21 limited to, the character and degree of injury to, or
22 interference with, the protection of health and the physical
23 property of the public, the practicability of reducing or
24 limiting the emissions from the air pollution source, and the
25 suitability or unsuitability of the air pollution source to
26 the area where it is located. An order may include advisory
27 recommendations for the control of emissions from an air
28 contaminant source and the reduction of the emission of air
29 contaminants.

30 Sec. 8. Section 455B.141, Code 1991, is amended to read as
31 follows:

32 455B.141 LEGAL ACTION.

33 If action to prevent, control, or abate air pollution is
34 not taken in accordance with the rules established, or orders
35 or permits issued by the department, or if the director has

1 evidence that an emergency exists by reason of air pollution
2 which requires immediate action to protect the public health
3 or property, the attorney general, at the request of the
4 director, shall commence legal action, in the name of the
5 state, for an injunction to prevent any further or continued
6 violation of such rule or order.

7 EXPLANATION

8 This bill provides for the establishment of an operating
9 permit program by the department of natural resources for air
10 contaminant sources, provides for the adoption of emission
11 limitations or standards for air contaminant sources which
12 exceed federal standards or limitations in emergency
13 situations, and imposes a fee on the emissions from air
14 contaminant sources as mandated by the federal Clean Air Act
15 of 1990.

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**SENATE FILE 512
FISCAL NOTE**

A fiscal note for Senate File 512 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 512 establishes a per ton fee on the emission of certain chemicals into the air by facilities covered by the federal Clean Air Act of 1990. The fees are to be deposited in a special fund and are to be used solely for the State's air contaminant program as mandated by federal law. The bill also requires that air contaminant sources receive operating permits from the Department of Natural Resources (DNR) prior to operation and provides for State air contaminant standards that are more strict than federal standards when the DNR determines the situation to be an emergency.

Assumptions:

1. The expanded air contaminant program mandated by the federal government will require \$850,000 and 7 FTE positions in each of the first 2 years of the program.
2. The total tons of air contaminants that will be subject to the fee cannot be accurately predicted. However, the number should exceed 40,000 tons.

Fiscal Effect:

The bill requires that the air contaminant fee be \$25 per ton starting July 1, 1991. This is the federal minimum fee. The fee could increase once the program is fully operational and the universe of air contaminants is fully analyzed. For the first 2 years, the \$25 per ton is projected to generate more than \$1 million per year, which will exceed the projected program needs and leave an ending balance in the Fund. The ending balance will be used in future years when the program is fully operational (required under federal law to be no later than fall of 1993). Due to the uncertainties as to federal program requirements, the fee in future years cannot be predicted.

(LSB 1666sv, JWR)

FILED APRIL 1, 1991

BY DENNIS PROUTY, FISCAL DIRECTOR

SSB 170

ENVIRONMENT + ENERGY
UTILITIES

SENATE FILE 512

BY (PROPOSED COMMITTEE ON
ENERGY AND ENVIRONMENTAL
UTILITIES BILL BY
CHAIRPERSON ROSENBERG)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to air emission and water quality, pretreatment,
2 and effluent standards and limitations.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 455B.133, subsection 4, unnumbered
2 paragraph 1, Code 1991, is amended to read as follows:

3 Adopt, amend, or repeal emission limitations or standards
4 relating to the maximum quantities of air contaminants that
5 may be emitted from any air contaminant source. The standards
6 or limitations adopted under this section ~~shall-not~~ may exceed
7 the standards or limitations promulgated by the administrator
8 of the United States environmental protection agency or the
9 requirements of the federal Clean Air Act as amended to
10 January 1, 1979. This does not prohibit the commission from
11 adopting a standard for a source or class of sources for which
12 the United States environmental protection agency has not
13 promulgated a standard.

14 Sec. 2. Section 455B.173, subsection 2, unnumbered
15 paragraph 2, Code 1991, is amended to read as follows:

16 If the federal environmental protection agency has
17 promulgated an effluent standard or pretreatment standard
18 pursuant to section 301, 306 or 307 of the federal Water
19 Pollution Control Act, a pretreatment or effluent standard
20 adopted pursuant to this section ~~shall-not~~ may be more
21 stringent than the federal effluent or pretreatment standard
22 for such source. This section does not preclude the
23 ~~establishment-of-a-more-restrictive-effluent-limitation-in-the~~
24 ~~permit-for-a-particular-point-source-if-the-more-restrictive~~
25 ~~effluent-limitation-is-necessary-to--meet-water-quality~~
26 standards, the establishment of an effluent standard for a
27 source or class of sources for which the federal environmental
28 protection agency has not promulgated standards pursuant to
29 section 301, 306 or 307 of the federal Water Pollution Control
30 Act. Except as required by federal law or regulation, the
31 commission shall not adopt an effluent standard more stringent
32 with respect to any pollutant than is necessary to reduce the
33 concentration of that pollutant in the effluent to the level
34 due to natural causes, including the mineral and chemical
35 characteristics of the land, existing in the water of the

1 state to which the effluent is discharged. Notwithstanding
2 any other provision of this part of this division, any new
3 source, the construction of which was commenced after October
4 18, 1972, and which was constructed as to meet all applicable
5 standards of performance for the new source or any more
6 stringent effluent limitation required to meet water quality
7 standards, shall not be subject to any more stringent effluent
8 limitations during a ten-year period beginning on the date of
9 completion of construction or during the period of
10 depreciation or amortization of the pollution control
11 equipment for the facility for the purposes of section 167 and
12 169 or both sections of the Internal Revenue Code, whichever
13 period ends first.

14 EXPLANATION

15 This bill provides for the adoption, amendment, or repeal
16 of emission limitations or standards relating to maximum
17 quantities of air contaminants and of water quality,
18 standards, pretreatment standards and effluent standards by
19 the environmental protection commission which are more
20 stringent than those established by the federal government.

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