

Indiana Air Pollution Control Law



Chapter 171, Acts of 1961, as amended
Indiana General Assembly

Air Pollution Control Board of the State of Indiana
1330 West Michigan Street
Indianapolis 46206



INDIANA AIR POLLUTION CONTROL LAW

Chapter 171, Acts of 1961 as amended by Chapter 357, Acts of 1969

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. It is the intent and purpose of this act to maintain the purity of the air resource of the State, which shall be consistent with protection of the public health and welfare and the public enjoyment thereof, physical property and other resources, flora and fauna, maximum employment and full industrial development of the State. The Control Board shall safeguard the air resource through the prevention, abatement and control of air pollution by all practical and economically feasible methods.

It is declared that local and air quality basin control programs are to be supported to the extent practicable as essential instruments for the securing and maintenance of appropriate levels of air quality.

It is further declared that this can be done most effectively by focusing on goals to be achieved by a maximum of cooperation among all parties concerned and that codes, rules and regulations established under the provisions of this act should be clearly premised upon scientific knowledge of causes as well as of effects.

The State Board of Health shall provide assistance on air pollution matters to towns, cities and counties. (As amended by Chapter 357, Acts of 1969.)

SEC. 2. The following terms as used in this Act shall, unless the context otherwise requires, have the following meanings:

(a) "Control Board" is the Air Pollution Control Board of the State of Indiana.

(b) "Person" is any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, municipality, or any other legal entity, or their legal representative, agent or assigns.

(c) "Air Pollution" is presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant or animal life or to property, or which unreasonably interfere with the comfortable enjoyment of life and property.

(d) "Air Contaminant" is dust, fumes, gas, mist, smoke, or vapor, or any combination thereof.

(e) "Air Contaminant Source" is any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops and stores, and heating and power plants and stations, buildings and other structures of

all types, including single and multiple family residences, apartments, houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches and other institutional buildings, automobiles, trucks, tractors, buses and other motor vehicles, garages and vending and service locations and stations, railroad locomotives, ships, boats and other water-borne craft, portable fuel-burning equipment, incinerators of all types, indoor and outdoor, refuse dumps and piles, and all stack and other chimney outlets from any of the foregoing.

SEC. 3. There is hereby created an administrative board to be known as the Air Pollution Control Board of the State of Indiana.

The powers and duties of the Air Pollution Control Board shall be vested in a seven (7) member board. The Secretary of the Indiana State Board of Health shall serve as an ex-officio member of said Board. The remaining six (6) members shall be appointed by the Governor, one (1) of whom shall be a physician who holds an unlimited license to practice medicine in the State of Indiana, one (1) shall be a qualified graduate engineer registered in Indiana, one (1) representing agriculture, one (1) representing industry, one (1) representing municipal government and one (1) representing the general public. The appointed members' terms of office shall be four years except that the terms of those first appointed shall expire as follows:

one at the end of one year after date of appointment,
one at the end of two years after date of appointment,
two at the end of three years after date of appointment,
and

two at the end of four years after the date of appointment as designated by the Governor at the time of appointment. The terms of all members shall continue until their respective successors have been duly appointed and qualified. If a vacancy occurs in the appointed membership, the Governor shall appoint a member for the remaining portion of the unexpired term created by the vacancy. The Governor may remove any appointed member for cause. The ex-officio member of the Control Board shall serve without additional compensation. Other members of the Control Board shall be paid mileage and a per diem of fifteen dollars (\$15.00) for each and every day, or part of a day, in actual attendance at any meeting or hearing of the Control Board, which per diem and mileage shall be valid claims against the Division of Health and Preventive Medicine of the State Department of Health (also known as the State Board of Health).

The Control Board shall hold at least two (2) regular meetings each calendar year at a place and time to be fixed by the Board. The Control Board shall select at its first meeting following the passage of this Act, one of its members to serve as chairman and another of its members to serve as vice-chairman. At the first regular meeting in each calendar year thereafter, the chairman and vice-chairman for the ensuing year shall be elected. The Secretary of the State Board of Health shall appoint

from the staff of the State Board of Health a qualified sanitary engineer registered in Indiana as technical secretary of the Control Board. He shall receive no additional compensation for such services and during the interim between meetings of the Control Board he shall handle such correspondence, make or arrange for such investigations and surveys and obtain, assemble or prepare such reports and data as the Control Board may direct and authorize. Special meetings may be called by the chairman or by two (2) members of the Control Board by delivery of written notice at the office of each member of the Control Board. Four (4) members of the Control Board shall constitute a quorum.

SEC. 4. (A) Powers and Duties of the Air Pollution Control Board.

The duty and power to administer and carry out the adjudicatory provisions of this Act hereinafter set forth in this Section is hereby vested in the Air Pollution Control Board and such Board is hereby empowered to:

(1) Make investigations, consider complaints and hold hearings.

(2) Enter such order or determination as may be necessary to effectuate the purposes of this Act. If the Control Board shall find that the condition of air pollution exists, as that term is defined herein, such order may require the taking of such action as is indicated by the circumstances to cause the abatement of such condition.

In making its orders and determinations hereunder, the Control Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions involved including, but not limited to:

(a) The character and degree of injury to, or interference with, comfort, safety, health, or the reasonable use and enjoyment of property;

(b) The social and economic value of the activity causing the emissions; and

(c) The practicability, both scientific and economic, of reducing or eliminating the emissions resulting from such activity.

The order or determination of the Control Board may include such advisory recommendation as the Control Board may deem appropriate for the control of the emissions from any air contaminant source and the reduction of the emission of air contaminants.

(3) Adopt and promulgate reasonable rules and regulations consistent with the general intent and purposes of this Act declared in Section 1 hereof and necessary to carry out the provisions and purposes of this Act. All rules and regulations shall be adopted and promulgated in accordance with the provisions of the statutes of this State concerning the establishment and promulgation of rules and regulations.

(4) Bring appropriate action to enforce its final orders or determinations under the Indiana Administrative Adjudication and Court Review Act. Such action shall be brought in the name of The Air Pollution Control Board of the State of Indiana.

(B) Powers and Duties of the State Board of Health.

The duty and power to assist and cooperate with other groups interested in and affected by air pollution is hereby vested in the State Board of Health and such Board is hereby empowered to:

(1) Advise, consult and cooperate with other agencies of the State, towns, cities, and counties, industries, other states and the federal government, and with affected groups in the prevention and control of new and existing air contamination sources within the State.

(2) Encourage and conduct studies, investigations and research relating to air pollution and its causes, effects, prevention, control and abatement.

(3) Collect and disseminate information relating to air pollution, its prevention and control.

(4) Encourage voluntary cooperation by persons, towns, cities and counties or other affected groups in restoring and preserving a reasonable degree of purity of air within this State.

(5) Encourage authorized air pollution agencies of towns, cities and counties to handle air pollution problems within their respective jurisdictions to the greatest extent possible.

(6) Provide technical assistance to towns, cities or counties requesting same for the furtherance of air pollution control.

(7) Represent the State of Indiana in any and all matters pertaining to plans, procedures, or negotiations for interstate compacts in relation to the control of air pollution.

(8) Accept and administer grants or other funds or gifts for the purpose of carrying out any of the functions of this Act.

(9) Enter at all reasonable times in or upon any private or public property except private residences for the purpose of inspecting and investigating conditions relating to the pollution of the air of this State.

(10) Investigate complaints received by it or referred to it by the Control Board, make such reports to the Control Board of its investigations as it deems advisable and participate, on behalf of this State, in proceedings or public hearings before the Control Board.

(11) The State Board of Health is authorized to budget and receive duly appropriated monies for expenditures to carry out the provisions and purposes of this Act.

SEC. 4a. The Control Board shall adopt and promulgate rules and regulations which shall create air quality basins based upon scientific study of geographical, topographical, meteorological data, and shall adopt and promulgate standards for ambient air quality for each basin to effectuate the purposes of this Act. (As amended by Chapter 357, Acts of 1969.)

SEC. 4b. (a) As the state of knowledge and technology relating to the control of emissions from motor vehicles may permit or make appro-

prate, and in furtherance of the purposes of this Act, the Control Board may provide by rules and regulations for the control of emissions from motor vehicles provided that the Control Board shall, prior to the establishment of such rules and regulations pertaining to the control of emissions from motor vehicles, forward to each member of the Indiana General Assembly a copy of such proposed rules and regulations. Such rules and regulations may prescribe requirements for the installation and use of equipment designed to reduce or eliminate emissions and for the proper maintenance of such equipment and of vehicles. Any rules or regulations pursuant to this section shall be consistent with provisions of federal law, relating to control of emissions from the vehicles concerned. The Control Board shall not require, as a condition precedent to the initial sale of a vehicle or vehicular equipment, the inspection, certification or other approval of any feature or equipment, designed for the control of emissions from motor vehicles, if such feature or equipment has been certified, approved or otherwise authorized pursuant to federal law.

(b) Except as permitted or authorized by law, no person shall fail to maintain in good working order or remove, dismantle or otherwise cause to be inoperative any air pollution control system or mechanism which is used solely to control air pollution of a motor vehicle and required by rules or regulations of the Control Board to be maintained in or on the vehicle. Any such failure to maintain in good working order or removal, dismantling or causing of inoperability shall subject the owner or operator to suspension or cancellation of the registration for the vehicle by the Commissioner of the Bureau of Motor Vehicles. The vehicle shall not thereafter be eligible for registration until the emission control equipment of the motor vehicle has been restored, replaced or repaired and is in good working order.

(c) The remedies and penalties provided in this section shall apply to violations hereof, and no provision of Section 7 (b) of this Act shall apply thereto.

(d) As used in this section "motor vehicles" shall mean "vehicle subject to inspection" as defined by Section 2, Subsection (e), Acts of 1967, Chapter 317. (As amended by Chapter 357, Acts of 1969.)

SEC. 5. The discharge into the outdoor atmosphere of air contaminants so as to cause air pollution and create a public nuisance is contrary to the public policy of the State of Indiana and the provisions of this Act.

Air pollution may at certain times and places so seriously affect the public health and so threaten the population as to warrant emergency powers to prevent or minimize disasters of unforeseen proportions. If the technical secretary of the Control Board, in consultation with the Secretary of the State Board of Health of Indiana, determines that air pollution in any area constitutes an unreasonable and emergency risk to the health and safety of those in the area, such determination shall be immediately communicated to the Governor. The Governor may, by proclamation, declare that an emergency exists and order all persons causing or

contributing to the air pollution to reduce or discontinue immediately the emission of air contaminants. Not more than 24 hours thereafter the Attorney General of the State of Indiana, at the request of the Governor, shall initiate injunctive proceedings in the appropriate court against the person or persons causing or contributing to the air pollution to stop the emission of contaminants causing such pollution or to take such other action as may be necessary. If such action is not commenced within such 24-hour period, the Governor's proclamation shall become void. (As amended by Chapter 357, Acts of 1969.)

SEC. 6. The Air Pollution Control Board may hold a hearing with respect to any suspected violation of the provisions of this Act.

- (1) upon its own motion,
- (2) upon complaint filed with the Board by any person, and
- (3) upon complaint filed with the Board by the appropriate officer of any town, city or county or of the State Board of Health.

Notice of hearing, the conduct of such hearing and appeal from any order or decision of the Control Board shall be in accordance with the provisions of the Indiana Administrative Adjudication and Court Review Act, as amended.

SEC. 7. (a) It shall be unlawful to refuse to comply with any rule, regulation or order of the Control Board, or to in any manner hinder, obstruct, delay, resist, prevent or in any way interfere or attempt to interfere with the Control Board of the State Board of Health, and its personnel in the performance of any duty hereunder, or refuse to permit such personnel to perform their duty by refusing them, after proper identification or presentation of written order of the Control Board, entrance at reasonable hours to any premises.

(b) Any person who violates any provision of this Act or any such regulation or order of the Control Board shall be deemed guilty of a misdemeanor and may be punished by a fine of not to exceed five hundred dollars (\$500) per act of violation. Each day that the court may find the defendant in violation of the Act shall be a separate offense. (As amended by Chapter 357, Acts of 1969.)

SEC. 8. (a) Nothing within this Act shall prevent towns, cities or counties from enforcing local air pollution ordinances consistent with the provisions of this Act, or from enacting or enforcing more restrictive ordinances to further the expressed purposes of this Act.

(b) For the maintenance of the quality of the air resource, the board of commissioners of any county may enact and enforce ordinances controlling air pollution. Such ordinances shall not include municipalities with an air pollution ordinance pursuant to the provisions of this Act.

(c) Any town, city or county within an air quality basin may administer its air pollution control program in cooperation with one (1) or more town, city or county of this State, in accordance with the provisions of the Interlocal Cooperation Act.

(d) Each air pollution control agency shall submit such annual reports as may be requested by the Control Board.

(e) When an air quality jurisdiction, or administrator thereof, fails to enforce the local ordinance which affords protection to the public equal to that provided by state law, the Control Board, after consultation with that jurisdiction or administrator, may take such appropriate action as may be necessary to enforce applicable provisions of state law. (As amended by Chapter 357, Acts of 1969).

SEC. 9. If any section, subsection, sentence, clause, phrase, or word of this Act is for any reason held to be unconstitutional, such determination shall not affect the validity of any of the remaining portions of this Act.

SEC. 10. This Act shall be in full force and effect on or after January 1, 1963.

NOTE: Since Chapter 357, Acts of 1969, contains an emergency clause, it shall be in full force and effect on or after March 15, 1969.