

1 HOUSE BILL NO. 660

2 INTRODUCED BY D. POWERS, J. REAVIS, L. MUSZKIEWICZ, B. EDWARDS, J. ISALY, T. CROWE, J.
3 SECKINGER, B. CLOSE, P. ELVERUM, S. FYANT, J. WEBER, M. CUNNINGHAM, S. ROSENZWEIG, M.
4 DUNWELL, J. ELLIS, E. MATTHEWS, J. MORIGEAU, D. BAUM, P. FLOWERS, T. FRANCE, D. HAYMAN, A.
5 OLSEN, E. STAFMAN, Z. ZEPHYR, D. JOY, C. FITZPATRICK

6
7 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING DEPARTMENT RULEMAKING TO LIMIT
8 GREENHOUSE GAS EMISSIONS; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 75-
9 2-112, MCA."

10
11 WHEREAS, the Legislature has provided the Montana Department of Environmental Quality with
12 authority to regulate air pollutants; and

13 WHEREAS, the Montana Supreme Court has found that the department's authority includes the ability
14 to regulate greenhouse gases; and

15 WHEREAS, greenhouse gases are already having a negative impact on public health, safety, and
16 welfare, on the environment, and on Montana's economy and are predicted to have increasingly negative
17 impacts; and

18 WHEREAS, those negative impacts will worsen if the state continues ignoring the impacts of
19 greenhouse gases; and

20 WHEREAS, actions taken by the state to limit greenhouse gases will have significant health benefits to
21 Montanans; and

22 WHEREAS, the Legislature, mindful of its obligation under Article IX, section 1(3), is directing the
23 department to limit greenhouse gases in order to provide adequate remedies for the protection of the
24 environmental life support systems from degradation and provide adequate remedies to prevent unreasonable
25 depletion and degradation of natural resources.

26
27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
28

1 **Section 1.** Section 75-2-112, MCA, is amended to read:

2 **"75-2-112. Powers and responsibilities of department.** (1) The department is responsible for the
3 administration of this chapter.

4 (2) Subject to the provisions of 75-2-207, the department shall:

5 (a) adopt, amend, and repeal rules for the administration, implementation, and enforcement of this
6 chapter and for fulfilling the requirements of 42 U.S.C. 7420 and regulations adopted pursuant to that section,
7 except that, for purposes other than agricultural open burning, the department may not adopt permitting
8 requirements or any other rule relating to:

9 (i) any agricultural activity or equipment that is associated with the use of agricultural land or the
10 planting, production, processing, harvesting, or storage of agricultural crops by an agricultural producer and that
11 is not subject to the requirements of 42 U.S.C. 7475, 7503, or 7661a;

12 (ii) a commercial operation relating to the activities or equipment referred to in subsection (2)(a)(i)
13 that remains in a single location for less than 12 months and is not subject to the requirements of 42 U.S.C.
14 7475, 7503, or 7661a; or

15 (iii) forestry equipment and its associated engine used for forestry practices that remain in a single
16 location for less than 12 months and are not subject to the requirements of 42 U.S.C. 7475, 7503, or 7661a;

17 (b) issue orders necessary to effectuate the purposes of this chapter;

18 (c) by rule require access to records relating to emissions; and

19 (d) by rule adopt a schedule of fees required for permits, permit applications, and registrations
20 consistent with this chapter.

21 (3) The department shall:

22 (a) by appropriate administrative and judicial proceedings, enforce orders issued by the
23 department or the board;

24 (b) secure necessary scientific, technical, administrative, and operational services, including
25 laboratory facilities, by contract or otherwise;

26 (c) prepare and develop a comprehensive plan for the prevention, abatement, and control of air
27 pollution in this state;

28 (d) encourage voluntary cooperation by persons and affected groups to achieve the purposes of

1 this chapter;

2 (e) encourage local units of government to handle air pollution problems within their respective
3 jurisdictions on a cooperative basis and provide technical and consultative assistance for this. If local programs
4 are financed with public funds, the department may contract with the local government to share the cost of the
5 program. However, the state share may not exceed 30% of the total cost.

6 (f) encourage and conduct studies, investigations, and research relating to air contamination and
7 air pollution and their causes, effects, prevention, abatement, and control;

8 (g) determine, by means of field studies and sampling, the degree of air contamination and air
9 pollution in the state;

10 (h) make a continuing study of the effects of the emission of air contaminants from motor vehicles
11 on the quality of the outdoor atmosphere of this state and make recommendations to appropriate public and
12 private bodies with respect to this;

13 (i) collect and disseminate information and conduct educational and training programs relating to
14 air contamination and air pollution;

15 (j) advise, consult, contract, and cooperate with other agencies of the state, local governments,
16 industries, other states, interstate and interlocal agencies, the United States, and any interested persons or
17 groups;

18 (k) consult, on request, with any person proposing to construct, install, or otherwise acquire an air
19 contaminant source or device or system for the control thereof concerning the efficacy of this device or system
20 or the air pollution problems which may be related to the source, device, or system. Nothing in this consultation
21 relieves a person from compliance with this chapter, rules in force under it, or any other provision of law.

22 (l) accept, receive, and administer grants or other funds or gifts from public or private agencies,
23 including the United States, for the purpose of carrying out this chapter. Funds received under this section shall
24 be deposited in the state treasury to the account of the department.

25 (4) The department shall develop rules to limit greenhouse gas emissions to protect public health,
26 safety, and welfare and the environment.

27 (4)(5) The department may assess fees to the applicant for the analysis of the environmental impact
28 of an application to redesignate the classification of any area, except those areas within the exterior boundaries

1 of a reservation of a federally recognized Indian tribe, under the classifications established by 42 U.S.C. 7470
 2 through 7479 (~~prevention of significant deterioration of air quality~~) for the prevention of significant deterioration
 3 of air quality. The determination of whether or not a fee will be assessed is to be on a case-by-case basis."

4 - END -