

1 HB374
2 147371-1
3 By Representatives Rogers, Robinson (O), Scott, Moore (M) and
4 Coleman-Evans (N & P)
5 RFD: Commerce and Small Business
6 First Read: 28-FEB-13

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8 SYNOPSIS: Under existing law, the Alabama Department
9 of Environmental Management may issue a permit to
10 emit air pollutants under Title V of the Federal
11 Clean Air Act without notifying the public.

12 This bill would require the department, and
13 in some instances local air pollution control
14 boards, to notify the public of a proposed issuance
15 or renewal of these permits if the emitting
16 facility is located in a Class I municipality.

17 This bill would require the department or
18 local air pollution control board to make a draft
19 of the permit application available to the public
20 and to hold a public hearing and accept public
21 comments if requested by the public.

22 This bill would require the department or
23 board, if applicable, to provide more comprehensive
24 public notification for air quality permits in
25 communities in which a Superfund site is located
26 that may impact the residents of the community.
27

1 A BILL
2 TO BE ENTITLED
3 AN ACT
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5 To amend Section 22-28-17, Code of Alabama 1975,
6 relating to permitting by the Department of Environmental
7 Management for air pollutant facilities; to require public
8 notification and an opportunity for public comment before
9 issuing or renewing certain air permits in Class 1
10 municipalities; to require additional notification
11 requirements in communities that may be impacted by a
12 Superfund site.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Section 22-28-17, Code of Alabama 1975,
15 are amended to read as follows:

16 "§22-28-17.

17 "(a) The ~~commission~~ department may require that
18 notice be given to the director prior to the undertaking of
19 the construction, installation or establishment of particular
20 types or classes of new air contamination sources specified in
21 its rules and regulations. Within 15 days of its receipt of
22 such notice, the director may require, as a condition
23 precedent to the construction, installation or establishment
24 of the air contaminant source or sources covered thereby, the
25 submission of plans, specifications and such other information
26 as it deems necessary in order to determine whether the
27 proposed construction, installation or establishment will be

1 in accord with applicable rules and regulations in force
2 pursuant to this chapter. If, within 60 days of the receipt of
3 plans, specifications or other information required pursuant
4 to this section, the director determines that the proposed
5 construction, installation or establishment will not be in
6 accord with the requirements of this chapter or applicable
7 rules and regulations, he shall issue an order prohibiting the
8 construction, installation or establishment of the air
9 contaminant source or sources. Failure of such an order to
10 issue within the time prescribed in this section shall be
11 deemed a determination that the construction, installation or
12 establishment may proceed, provided that it is in accordance
13 with the plans, specifications or other information, if any,
14 required to be submitted.

15 "(b) In addition to any other remedies available on
16 account of the issuance of an order prohibiting construction,
17 installation or establishment, and prior to invoking any such
18 remedies, the person or persons aggrieved thereby shall, upon
19 request in accordance with rules of the ~~commission~~ department,
20 be entitled to a hearing on the order. Following such hearing,
21 the order may be affirmed, modified or withdrawn.

22 "(c) For the purposes of this chapter, addition to,
23 or enlargement or replacement of an air contaminant source, or
24 any major alteration therein, shall be construed as
25 construction, installation or establishment of a new air
26 contaminant source.

1 "(d) Any features, machines and devices constituting
2 parts of, or called for by, plans, specifications or other
3 information submitted pursuant to subsection (a) of this
4 section shall be maintained in good working order.

5 "(e) Nothing in this section shall be construed to
6 authorize the ~~commission~~ department to require the use of
7 machinery, devices or equipment from a particular supplier or
8 produced by a particular manufacturer if the required
9 performance standards may be met by machinery, devices or
10 equipment otherwise available.

11 "(f) The absence or failure to issue a rule,
12 regulation or order pursuant to this section shall not relieve
13 any person from compliance with any emission control
14 requirements or with any other provision of law.

15 "(g) The ~~commission~~ department, by rule or
16 regulation, may prescribe and provide for the payment and
17 collection of reasonable fees for public notification and for
18 the review of plans and specifications required to be
19 submitted pursuant to this ~~section~~ chapter. All such fees,
20 when collected, shall be deposited in the State Treasury to
21 the account of the Division of Air Pollution Control of the
22 State Department of Health."

23 Section 2. (a) For purposes of this section, the
24 following terms shall have the following meanings:

25 (1) DEPARTMENT. The Department of Environmental
26 Management.

1 (2) TITLE V AIR PERMIT. An air permit required under
2 Title V of the 1990 federal Clean Air Act for a facility
3 located within a Class 1 municipality, as defined in Section
4 11-40-12.

5 (b) Within 30 days of receiving a completed
6 application for the issuance or renewal of a Title V Air
7 Permit, the department or local air pollution control board as
8 provided in Section 22-28-23, Code of Alabama 1975, if
9 applicable, shall make the permit application accessible to
10 the public and shall provide public notice of the proposed
11 activity and an opportunity to request a public hearing and
12 submit comments. Notice shall include the name of the
13 applicant, a brief description of the proposed activity, a
14 description of where the public can view or obtain a copy of
15 the draft Title V Air Permit when it becomes available, and
16 information on how to request a public hearing and submit
17 comments to the department or board. Copies of the draft Title
18 V Air Permit shall be made available in a public facility and
19 free of charge to the public. If so requested, the department
20 or board shall hold a public hearing and accept comments. Any
21 decision by the department shall take such comments into
22 consideration when acting on the application. Notice shall be
23 provided by publication in a newspaper of general circulation
24 in the Class 1 municipality.

25 (c) For any application for the issuance or renewal
26 of a Title V Air Permit located within a community that may be
27 impacted by the presence of hazardous substances from a site

1 identified on the national priorities list of the U.S.
2 Environmental Protection Agency or a site identified by the
3 department pursuant to Section 22-30A-5, Code of Alabama 1975,
4 public notice shall be provided in the proposed affected area
5 by public announcement on local radio and television stations
6 and by direct mail to each residence in the community. In
7 addition to the initial notification, notice shall also be
8 provided to each residence in the community, in a similar
9 manner, within 30 days of the department or board issuing or
10 renewing a Title V Air Permit.

11 (d) The provisions of this subsection shall not
12 apply to any Title V Air Permit issued to a solid waste
13 disposal facility.

14 Section 3. This act shall become effective June 1,
15 2014.