

Senate Bill 276

By: Senators Fort of the 39th and Reed of the 35th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 9 of Title 12 of the Official Code of Georgia Annotated,
2 relating to air quality, so as to provide collective emissions limitations for facilities emitting
3 pentachlorophenol near primary and secondary schools; to provide for legislative findings;
4 to provide for penalties for noncompliance with such emissions limitations; to provide that
5 compliance shall not alter the obligation to comply with other laws or regulations; to provide
6 a definition of the term "pentachlorophenol"; to provide for powers and duties of the director
7 of the Environmental Protection Division of the Department of Natural Resources; to provide
8 for conditions for permits; to provide for the effect of noncompliance with regard to permits;
9 to provide for rules and regulations; to provide for related matters; to provide an effective
10 date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 The General Assembly finds that the emission of pentachlorophenol has potential devastating
14 effects on human health and the environment. Pentachlorophenol is classified by the
15 Environmental Protection Agency as a carcinogen that causes tumors, Hodgkin's disease, soft
16 tissue sarcoma, and acute leukemia. It is well documented that exposure to
17 pentachlorophenol damages the liver, kidneys, thyroid, and brain and has been linked to the
18 impairment of the immune system and central nervous system, birth defects, and respiratory
19 illness. Many factors increase children's susceptibility to the toxic effects of this chemical
20 and children are at a much higher risk than adults of being poisoned or suffering ill health
21 effects from exposure to pentachlorophenol. Daily long term exposure by Georgia's children
22 required to attend schools near facilities that emit pentachlorophenol greatly increases the
23 chances that these innocent children will suffer life-threatening injury. It is incumbent upon
24 the General Assembly to protect Georgia's children from exposure to the toxic pollutant,
25 pentachlorophenol.

SECTION 2.

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27 Article 1 of Chapter 9 of Title 12 of the Official Code of Georgia Annotated, relating to air
28 quality, is amended by adding a new Code section to read as follows:

29 "12-9-26.

30 (a) As used in this Code section, the term 'pentachlorophenol' means that chemical with
31 the CAS registry number 87-86-5 and includes any substance by whatever trade name
32 containing such chemical.

33 (b) A facility shall not emit pentachlorophenol in any amount if such facility is located
34 within a two-mile radius of a public or private primary or secondary school building.

35 (c) Compliance with the emissions limitations set out in this Code section shall not alter
36 the obligation of any person to comply with any other federal or state law, regulation, or
37 rule relating to air quality or visibility. This Code section shall not be construed to limit the
38 authority of the division to impose any additional specific limitations on the emission of
39 pentachlorophenol. Any facility in violation of this Code section shall be subject to the
40 penalties set forth in Code Sections 12-9-23 and 12-9-24.

41 (d) The director shall require that any permit or amended permit issued for a facility that
42 is subject to this Code section or that is subject to other restrictions on the emission of
43 pentachlorophenol as required by the division shall include the restrictions required by this
44 Code section, including conditions that provide for testing, monitoring, record keeping, and
45 reporting adequate information to assure compliance with such requirements. The director
46 shall require the amendment of any permit previously issued to a facility to include such
47 conditions. Failure to comply with this Code section or with regulations promulgated in
48 accordance with this Code section shall be grounds for revocation, suspension, or
49 amendment of any permit issued by the director.

50 (e) Any information, advice, findings, recommendations, or determinations provided by
51 the director in accordance with this Code section shall not constitute a final agency
52 decision within the meaning of Chapter 13 of Title 50, the 'Georgia Administrative
53 Procedure Act,' and shall not be subject to review under that chapter.

54 (f) The Board of Natural Resources shall be authorized to promulgate rules and regulations
55 to implement the provisions of this Code section.

56 (g) For purposes of the enforcement of this Code section, the director shall be authorized
57 to conduct public hearings as he or she deems necessary; to issue orders; to institute, in the
58 name of the division, proceedings of mandamus, injunction, or other proper administrative,
59 civil, or criminal proceedings; and to exercise all incidental powers necessary to carry out
60 the purposes of this Code section.

61 (h) The provisions of Code Sections 12-9-15, 12-9-16, and 12-9-17 shall apply to orders
62 and actions of the director relating to this Code section and to legal assistance from the
63 Attorney General for actions in connection therewith."

64 **SECTION 3.**

65 This Act shall become effective on July 1, 2009.

66 **SECTION 4.**

67 All laws and parts of laws in conflict with this Act are repealed.