

House Bill 1087

By: Representatives Long of the 61st, Geisinger of the 48th, Benfield of the 85th, Buckner of the 130th, Allison of the 8th, and others

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 penalties for
4 noncompliance with such emissions limitations; to provide that compliance shall not alter the
5 obligation to comply with other laws or regulations; to provide a definition of the term
6 "pentachlorophenol"; to provide for powers and duties of the director of the Environmental
7 Protection Division of the Department of Natural Resources; to provide for conditions for
8 permits; to provide for the effect of noncompliance with regard to permits; to provide for
9 rules and regulations; to provide for related matters; to provide an effective date; to repeal
10 conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

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

15 "12-9-26.

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

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

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

27 (d) The director shall require that any permit or amended permit issued for a facility that
28 is subject to this Code section or that is subject to other restrictions on the emission of
29 pentachlorophenol as required by the division shall include the restrictions required by this
30 Code section, including conditions that provide for testing, monitoring, record keeping, and
31 reporting adequate information to assure compliance with such requirements. The director
32 shall require the amendment of any permit previously issued to a facility to include such
33 conditions. Failure to comply with this Code section or with regulations promulgated in
34 accordance with this Code section shall be grounds for revocation, suspension, or
35 amendment of any permit issued by the director.

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

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

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

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

50 **SECTION 2.**

51 This Act shall become effective on July 1, 2010.

52 **SECTION 3.**

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