

CHAPTER 104

(HB 346)

AN ACT relating to air quality programs and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 224.20-050 is amended to read as follows:

- (1) *As used in this section, "emergency stationary internal combustion engine" means any engine that:*
 - (a) *Has no time limits on use in emergency situations;*
 - (b) *Is operated for a maximum of one hundred (100) hours per calendar year for all nonemergency situations, including maintenance checks and readiness testing; and*
 - (c) *Is operated for a maximum of fifty (50) hours per calendar year for nonemergency situations that do not constitute maintenance checks or readiness testing. Hours of operation under this paragraph are counted as part of the one hundred (100) hours allowed under paragraph (b) of this subsection.*
- (2) The cabinet, or an air pollution control district created pursuant to KRS Chapters 77 and 224, may promulgate **administrative** regulations adopting fees for the cost of administering the air quality program authorized by this chapter, as mandated under the Clean Air Act Amendments of 1990, **Pub. L. No. 101-549**, as amended~~ed~~. Any person who fails to pay a fee as required by the administrative regulations adopted pursuant to this section shall pay an additional fee equal to fifty percent (50%) of the fee amount, plus interest on the fee amount computed in accordance with **26 U.S.C. sec. 6621(a)(2)**~~Section 6621(a)(2) of the Internal Revenue Code of 1986 (Public Law 99-499)~~, as amended, relating to computation of interest on underpayment of federal taxes~~es~~.
- ~~(3)(2)~~ The cabinet may use the fee structure implemented by administrative regulations to generate funds to finance the cabinet's air quality program. The cabinet's fee structure shall not generate moneys in excess of the amount authorized in the enacted budget bill.
- ~~(4)(3)~~ *Except as provided in subsection (5) of this section, the emissions fees shall be assessed on each permitted source of regulated air pollutants emitted in the preceding year, and the cabinet shall not create an upper limit on the amount of actual emissions of a single regulated air pollutant from a permitted source emitted in the preceding year that may be assessed emissions fees.*
- (5) *An emergency stationary internal combustion engine unit shall not subject a source that has been issued a state origin or federally enforceable non-major source permit to the assessment or payment of emissions fees on any emissions from that source.*
- ~~(6)(4)~~ Moneys generated by a fee structure shall be deposited into a separate and distinct interest-bearing account and invested in accordance with administrative regulations promulgated by the State Investment Commission pursuant to KRS 42.525. Moneys not expended at the end of a fiscal year shall be carried forward to the next fiscal year. Any available balance shall be credited against the emissions fee required in the succeeding fiscal year, and shall be credited to each source according to the proportion of the total of all emission fees which were paid by that source in a timely manner.

➔Section 2. Subsection (5) of Section 1 of this Act applies retroactively to emissions fees assessed by the cabinet for calendar year 2023 emissions. Within 90 days of the effective date of this Act, the cabinet shall refund to a permitted source any emissions fees it paid for calendar year 2023 emissions in contravention of the requirements of subsection (5) of Section 1 of this Act. The cabinet shall not assess or reassess any new fees for calendar year 2023 emissions.

➔Section 3. Whereas it is necessary for the health and welfare of the citizens of the Commonwealth that an air quality program established by an air pollution control board or the Energy and Environment Cabinet be properly maintained and funded, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Veto Overridden March 27, 2025.

