

By: Farrar

H.B. No. 4083

A BILL TO BE ENTITLED

AN ACT

relating to controlling emissions of air contaminants under the Texas Clean Air Act; providing for penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 382.085, Health and Safety Code, is amended by amending Subsection (a) and adding Subsections (c), (d), and (e) to read as follows:

(a) A ~~[Except as authorized by a commission rule or order,~~
a] person may not cause, suffer, allow, or permit the emission of any air contaminant or the performance of any activity that causes or contributes to, or that will cause or contribute to, either in isolation or in conjunction with air contaminants from other sources, a condition of air pollution.

(c) For purposes of this section, a condition of air pollution is considered to exist if sufficient and credible evidence demonstrates an unacceptable risk of health effects due to air pollution as determined by:

(1) a measured level of an air contaminant in excess of an effects screening level for the air contaminant for a relevant period as provided by commission rule;

(2) a measured level of multiple air contaminants that in conjunction with one another increase the risk of cancer in a person exposed to the air contaminants by greater than one chance in 100,000 or another measured level of multiple air contaminants

1 established by the commission to protect human health and welfare
2 and the environment;

3 (3) a measured level of multiple air contaminants that
4 are associated with the same chronic health condition and that in
5 conjunction with one another are likely to result in a greater risk
6 to an exposed person's health than would one of the contaminants in
7 isolation if measured at the relevant effects screening level for
8 the contaminant; or

9 (4) any other evidence that is of sufficient value and
10 credibility to demonstrate an adverse effect to human health or
11 welfare, animal life, vegetation, or property, or an interference
12 with the normal use and enjoyment of animal life, vegetation, or
13 property.

14 (d) In addition to any other remedy authorized by law, the
15 commission by rule shall establish requirements for assessing a
16 penalty or initiating an action for an injunction against a person
17 who violates this section.

18 (e) If the commission brings an action for a violation of
19 this section, the burden is on the owner or operator of the facility
20 or source, through certification by a responsible official
21 designated by the owner or operator, to demonstrate to the
22 commission that:

23 (1) the facility or source is in compliance with all
24 technological requirements applicable to the facility or source;

25 (2) the facility or source is in compliance with all
26 monitoring requirements applicable to the facility or source; and

27 (3) the owner or operator is not aware of any evidence

1 that demonstrates that the facility or source has caused or
2 contributed to a condition of air pollution in violation of this
3 section.

4 SECTION 2. (a) Not later than January 1, 2010, the Texas
5 Commission on Environmental Quality shall adopt requirements for
6 assessing a penalty or initiating an action for an injunction
7 against a person who violates Section 382.085, Health and Safety
8 Code, as amended by this Act.

9 (b) Section 382.085, Health and Safety Code, as amended by
10 this Act, applies only to a violation of Section 382.085, Health and
11 Safety Code, that occurs on or after the effective date of this Act.
12 A violation of Section 382.085, Health and Safety Code, that occurs
13 before the effective date of this Act is governed by the law in
14 effect when the violation occurred, and the former law is continued
15 in effect for that purpose.

16 SECTION 3. This Act takes effect September 1, 2009.