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1 IN THE SENATE

BY THE HEALTH, WELFARE, AND
EDUCATION COMMITTEE

2

HOUSE CS FOR SENATE BILL NO. 93

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act providing for the conservation of the air
7 quality of the state and the prevention and control
8 of air pollution."

9

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

10

* Section 1. AS 18.30 is repealed.

11

* Sec. 2. AS 18 is amended by adding a new chapter to read:

12

CHAPTER 31. AIR POLLUTION.

13

Sec. 18.31.010. DECLARATION OF POLICY. (a) It is declared to
14 be the policy of the state and the purpose of this chapter to achieve
15 and maintain levels of air quality that will protect human health and
16 safety, and to the greatest degree practicable, prevent injury to plant
17 and animal life and property, foster the comfort and convenience of the
18 people, promote the economic and social development of the state and
19 facilitate the enjoyment of the natural attractions of the state.

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(b) It is also declared that local and regional air pollution
21 control programs shall be supported to the extent practicable as es-
22 sential instruments for the securing and maintaining of appropriate
23 levels of air quality.

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(c) To these ends it is the purpose of this chapter to

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(1) provide for a coordinated statewide program of air
26 pollution prevention, abatement and control;

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(2) provide for an appropriate distribution of responsi-
28 bilities among the state and local units of government;

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(3) facilitate cooperation across jurisdictional lines

1 in dealing with problems of air pollution not confined within single
2 jurisdictions; and

3 (4) provide a framework within which all values may be
4 balanced in the public interest.

5 Sec. 18.31.020. AIR POLLUTION CONTROL COMMISSION. There is
6 created within the Department of Health and Welfare the Air Pollution
7 Control Commission, the members of which shall be the commissioners of
8 the Departments of Economic Development, Fish and Game, Health and
9 Welfare, and Natural Resources, and five members appointed by the
10 governor. Of the five members appointed by the governor, insofar as
11 practicable one shall be a licensed physician knowledgeable in the
12 health effects of air pollution; one shall be a professional engineer
13 experienced in the field of air pollution control; one shall be a repre-
14 sentative of local and regional air pollution control agencies; one
15 shall be a representative of industry, employed by a manufacturing,
16 power generating or fuels firm within the state, and be experienced in
17 air pollution control; and one shall be chosen at large. The commis-
18 sion shall select its own chairman from among its members.

19 Sec. 18.31.030. TERM. The terms of the appointed members shall
20 be four years except that of the initially-appointed members, one shall
21 serve for one year, one shall serve for two years, one shall serve for
22 three years and two shall serve for four years, as designated by the
23 governor at the time of appointment. Whenever a vacancy occurs, the
24 governor shall appoint a member for the remaining portion of the un-
25 expired term created by the vacancy.

26 Sec. 18.31.040. MEETINGS. The commission shall hold at least two
27 regular meetings each year and additional meetings which the chairman
28 considers desirable, at a place and time to be fixed by the chairman.
29 Special meetings shall be called by the chairman upon the written

1 request of four members. Five members shall constitute a quorum. Each
2 of the four department heads on the commission may designate a
3 principal deputy or assistant to act in his place on the commission.

4 Sec. 18.31.050. EXPENSES. Members of the commission shall re-
5 ceive no salary, but are entitled to per diem and travel expenses as
6 provided by law while attending commission business.

7 Sec. 18.31.060. COMMISSION PERSONNEL. The commissioner of health
8 and welfare shall employ an executive director, who may be a member of
9 the commission and who shall be an experienced administrator. The com-
10 mission may employ engineers, examiners, hearing officers, experts,
11 clerks, accountants and other assistants it considers necessary and
12 shall set the compensation for them when compensation for such employ-
13 ees has not already been established by the state.

14 Sec. 18.31.070. ADMINISTRATIVE SUPERVISION. The commission is
15 under the general administrative supervision of the commissioner of
16 health and welfare.

17 Sec. 18.31.080. POWERS. In addition to other powers conferred on
18 it by law the commission shall have power to

- 19 (1) adopt rules and regulations implementing this chapter;
20 (2) hold hearings relating to any aspect of the administra-
21 tion of this chapter and in that regard compel the attendance of
22 witnesses and the production of evidence;
23 (3) issue orders as may be necessary to effectuate the
24 purposes of this chapter and enforce them by appropriate administrative
25 and judicial proceedings;
26 (4) require access to records relating to emissions which
27 cause or contribute to air contamination;
28 (5) secure necessary scientific, technical, administrative
29 and operational services, including laboratory facilities, by contract

1 or otherwise;

2 (6) prepare and develop a comprehensive plan or plans for
3 the prevention, abatement and control of air pollution in the state;

4 (7) encourage voluntary cooperation by persons and affected
5 groups to achieve the purposes of this chapter;

6 (8) encourage local units of government to handle air pollu-
7 tion problems within their respective jurisdictions and on a coopera-
8 tive basis, and provide technical and consultative assistance for this;

9 (9) encourage and conduct studies, investigations and re-
10 search relating to air contamination and air pollution and their causes
11 effects, prevention, abatement and control;

12 (10) determine by means of field studies and sampling the
13 degree of air contamination and air pollution in the several areas of
14 the state;

15 (11) make a continuing study of the effects of the emission
16 of air contaminants from motor vehicles on the quality of the outdoor
17 atmosphere of the state and make recommendations to appropriate public
18 and private bodies with respect to this;

19 (12) establish ambient air quality standards for the state
20 as a whole or for any part of it;

21 (13) collect and disseminate information and conduct educa-
22 tional and training programs relating to air contamination and air
23 pollution;

24 (14) advise, consult, contract and cooperate with other
25 agencies of the state, local governments, industries, other states,
26 interstate or interlocal agencies, the federal government and with
27 interested persons or groups;

28 (15) consult, upon request, with any person proposing to con-
29 struct, install, or otherwise acquire an air contaminant source or a

1 device or system for its control, concerning the efficacy of the device
2 or system or the air pollution problem which may be related to the
3 source, device or system; nothing in this consultation may be construed
4 to relieve a person from compliance with this chapter, rules and regula-
5 tions in force under it or other provisions of law;

6 (16) accept and administer grants or other funds or gifts
7 from public and private sources, including the federal government, for
8 carrying out the purposes of this chapter.

9 Sec. 18.31.090. CLASSIFICATION AND REPORTING. (a) The commission
10 by rule or regulation, may classify air contaminant sources, which in
11 its judgment may cause or contribute to air pollution, according to
12 levels and types of emissions and other characteristics which relate to
13 air pollution, and may require reporting for the classifications.
14 Classifications made under this subsection may be for application to
15 the state as a whole or to a designated area of the state and shall be
16 made with special reference to effects on health, economic and social
17 factors and physical effects on property.

18 (b) A person operating or responsible for the operation of air
19 contaminant sources of a class for which the rules and regulations of
20 the commission require reporting shall make reports containing informa-
21 tion as may be required by the commission concerning location, size and
22 height of contaminant outlets, processes employed, fuels used and the
23 nature and time periods or duration of emissions, and other information
24 relevant to air pollution and available or reasonably capable of being
25 assembled.

26 Sec. 18.31.100. ADDITIONAL CONTAMINANT CONTROL MEASURES. (a) The
27 commission may require that notice be given to it before the undertaking
28 of the construction, installation or establishment of particular types
29 or classes of new air contaminant sources specified in its rules and

1 regulations. Within 15 days of its receipt of the notice, the commis-
2 sion may require, as a condition precedent to this undertaking, the
3 submission of plans and other information it considers necessary in
4 order to determine whether the proposed undertaking will be in accord
5 with applicable rules and regulations in force under this chapter. If
6 within 30 days of the receipt of these plans and information the com-
7 mission determines that the proposed undertaking will not be in accord
8 with the requirements of this chapter and applicable rules and regula-
9 tions, it shall issue an order prohibiting the undertaking. Failure
10 to issue the order within the time prescribed shall be considered an
11 approval of the plans and information and the undertaking may proceed
12 in accordance with them.

13 (b) A person subject to an order of prohibition as prescribed in
14 (a) of this section shall, upon written request in accordance with
15 rules of the commission, be entitled to a hearing on the order. This
16 procedure must be followed before invoking other available legal
17 remedies. Following the hearing the order may be affirmed, modified
18 or withdrawn.

19 (c) For the purposes of this chapter, addition to or enlargement
20 or replacement of an air contaminant source, or a major alteration of
21 one, shall be construed as an undertaking for the construction, instal-
22 lation or establishment of a new air contaminant source.

23 (d) Features, machines and devices constituting parts of or called
24 for by plans or other information submitted under (a) of this section
25 shall be maintained in good working order.

26 (e) Nothing in this section may be construed to authorize the
27 commission to require the use of machinery, devices or equipment from
28 a particular supplier or produced by a particular manufacturer if the
29 required performance standards may be met by machinery, devices or

1 equipment available from other sources.

2 (f) The absence of or the commission's failure to issue a rule,
3 regulation or order under this section does not relieve a person from
4 compliance with emission control requirements or other provisions of
5 law.

6 (g) The commission may require the payment of a reasonable fee
7 for the review of plans and information required to be submitted. No
8 fee for a single review may exceed \$25.

9 Sec. 18.31.110. INSPECTION. For the purpose of ascertaining the
10 state of compliance with this chapter and appropriate rules and regula-
11 tions a duly authorized officer, employee or representative of the
12 commission may, at a reasonable time, enter and inspect the property
13 and premises where an air contaminant source is located or is being
14 constructed. No person may refuse entry or access to an authorized
15 representative of the commission who requests entry for purposes of
16 inspection and who presents appropriate credentials; nor may a person
17 interfere with the inspection. If requested by the owner or operator
18 of the premises the commission shall give him a report setting out
19 all facts found which relate to compliance status.

20 Sec. 18.31.120. EMISSION CONTROL REQUIREMENTS. The commission
21 may establish emission control requirements which in its judgment are
22 necessary to prevent, abate or control air pollution. These require-
23 ments may be for the state as a whole or may vary from area to area
24 as may be appropriate to facilitate accomplishment of the purposes of
25 this chapter and in order to take account of varying local conditions.

26 Sec. 18.31.130. EMERGENCY PROCEDURE. (a) If the director finds
27 that a generalised condition of air pollution exists and that it creates
28 an emergency requiring immediate action to protect human health or
29 safety he shall, with the concurrence of the governor, order persons

1 causing or contributing to the air pollution to reduce or discontinue
2 immediately the emission of air contaminants. The order shall fix a
3 place and time, not more than 24 hours later, for a hearing to be held
4 before the commission. Within 24 hours after the commencement of the
5 hearing, and without adjournment of it, the commission shall affirm,
6 modify or set aside the order of the director.

7 (b) In the absence of a generalized condition of air pollution
8 of the type referred to in (a) of this section, but if the director
9 finds that emissions from the operation of one or more air contaminant
10 sources is causing imminent danger to human health or safety, he may
11 order the person responsible for the operation in question to reduce or
12 discontinue emissions immediately, without regard to sec. 220 of this
13 chapter. If an order is issued, the hearing requirements of (a) of
14 this section apply.

15 (c) Nothing in this section may be construed to limit the consti-
16 tutional, statutory or inherent power of the governor or other officer
17 to declare an emergency and act on the basis of that declaration.

18 Sec. 18.31.140. VARIANCES. (a) A person who owns or is in
19 control of a plant, building, structure, establishment, process or
20 equipment may apply to the commission for a variance from rules or
21 regulations. The commission may grant the variance, but only after
22 public hearing following due notice, if it finds that

23 (1) the emissions occurring or proposed to occur do not
24 endanger human health or safety; and

25 (2) compliance with the rules or regulations from which
26 variance is sought would produce serious hardship without equal or
27 greater benefits to the public.

28 (b) No variance may be granted under this section until the com-
29 mission has considered the relative interests of the applicant, other

1 owners of property likely to be affected by the emissions and the
2 general public.

3 (c) A variance or its renewal, granted under (a) of this section,
4 shall be for periods and under conditions consistent with the reasons
5 for it and within the following limitations:

6 (1) If the variance is granted on the ground that there is
7 no practicable means known or available for the adequate prevention,
8 abatement or control of the air pollution involved, it shall be only
9 until the necessary means for prevention, abatement or control become
10 known and available, subject to the taking of substitute or alternate
11 measures that the commission may prescribe.

12 (2) If the variance is granted on the ground that compliance
13 with the particular requirement from which variance is sought will
14 necessitate the taking of measures which, because of their extent or
15 cost, must be spread over a considerable period, it shall be for a
16 period not to exceed the reasonable time which in the opinion of the
17 commission is necessary. A variance granted on this ground shall
18 contain a timetable for taking action in an expeditious manner and
19 shall be conditioned on adherence to the timetable.

20 (3) If the variance is granted on the ground that it is
21 justified to relieve or prevent hardship of a kind other than that
22 provided in (c)(1) and (2) of this section, it shall be for not more
23 than one year.

24 (d) A variance granted under this section may be renewed on terms
25 and conditions and for periods which would be appropriate on initial
26 granting of a variance. If complaint is made to the commission on
27 account of the variance no renewal of it shall be granted unless, after
28 public hearing on the complaint following due notice, the commission
29 finds that renewal is justified. No renewal may be granted except upon

1 application for it. This application shall be made at least 60 days
2 before the expiration of the variance. Immediately upon receipt of an
3 application for renewal the commission shall give public notice of it.

4 (e) A variance or renewal shall not be a right of the applicant
5 but shall be in the discretion of the commission. However, a person
6 adversely affected by a variance or renewal granted by the commission
7 may obtain judicial review of the commission order in accordance with
8 the Administrative Procedure Act (AS 44.62). Judicial review of the
9 denial of a variance or renewal may be had only on the ground that the
10 denial was arbitrary or capricious.

11 (f) No variance or renewal granted under this section may be
12 construed to prevent or limit the application of the emergency provi-
13 sions of sec. 130 of this chapter.

14 Sec. 18.31.150. APPLICABILITY OF THE ADMINISTRATIVE PROCEDURE ACT.
15 Except as otherwise specifically provided in this chapter, the Adminis-
16 trative Procedure Act (AS 44.62) governs the activities and the pro-
17 ceedings of the commission.

18 Sec. 18.31.160. CONFIDENTIALITY OF RECORDS. Unless the owner or
19 operator expressly agrees to their publication or availability to the
20 general public, records and information in the possession of the commis-
21 sion concerning a contaminant source, which records and information
22 relate to production or sales figures or to processes or production
23 unique to the owner or operator or which would tend to adversely affect
24 his competitive position, as certified by him, shall be only for the
25 confidential use of the commission in the administration of this chap-
26 ter. The commission may, nevertheless, use these records and informa-
27 tion in compiling analyses or summaries relating to the general condi-
28 tion of the outdoor atmosphere so long as the owner or operator is not
29 identified and no information specified in the preceding sentence is

1 revealed.

2 Sec. 18.30.170. LOCAL AIR POLLUTION CONTROL PROGRAMS. (a) A
3 municipality with a population in excess of 5,000 shall within five
4 years from the effective date of this chapter, establish and administer
5 within its jurisdiction an air pollution control program. Organized
6 boroughs shall establish the air pollution control program required by
7 this section on an areawide basis, and the exercise of powers with re-
8 spect to the program is not subject to the restrictions on acquiring
9 additional areawide powers specified in AS 07.15.350. However, the
10 weighted vote shall apply to the exercise of powers as provided in
11 AS 07.20.070(d). This program shall

12 (1) provide by ordinance for requirements compatible with,
13 or stricter or more extensive than those imposed by secs. 120, 130 and
14 140 of this chapter and regulations issued under those sections;

15 (2) provide for the enforcement of the requirements by ap-
16 propriate administrative and judicial process;

17 (3) provide for administrative organization, staff, financial
18 and other resources necessary to effectively and efficiently carry out
19 the program; and

20 (4) be approved by the commission as adequate to meet the
21 requirements of this chapter and applicable rules and regulations.

22 (b) Other municipalities may establish and administer air pollu-
23 tion control programs if they meet the requirements of (a)(1) - (4)
24 of this section.

25 (c) A municipality may administer all or part of its air pollution
26 control program in cooperation with one or more municipalities.

27 (d) If the commission finds that the location, character or ex-
28 tent of particular concentrations of population, air contaminant sources,
29 the geographic, topographic or meteorological considerations, or a

1 combination of these factors, make impracticable the maintenance of
2 appropriate levels of air quality without an areawide air pollution
3 control program, the commission may determine the boundaries within
4 which the program is necessary and require it as the only acceptable
5 alternative to direct state administration.

6 Sec. 18.31.180. ABSENCE OF LOCAL PROGRAM. (a) If a municipality
7 required to establish or participate in an air pollution control pro-
8 gram under sec. 170(a) and (d) of this chapter fails to establish a
9 program within the time specified, or if the commission has reason to
10 believe that an air pollution control program in force under that
11 section is inadequate to prevent and control air pollution in the
12 jurisdiction to which the program applies, or that the program is being
13 administered in a manner inconsistent with the requirements of this
14 chapter the commission shall, following due notice, conduct a hearing
15 on the matter.

16 (b) If, after the hearing, the commission determines that any of
17 the deficiencies enumerated in (a) of this section exist, it shall re-
18 quire that necessary corrective action be taken within a reasonable
19 period of time, not to exceed 90 days.

20 (c) If the municipality or the district set up under sec. 170(d)
21 of this chapter fails to take the necessary corrective action within
22 the time specified the commission shall administer within the munici-
23 pality or district all of the regulatory provisions of this chapter.
24 The commission's air pollution control program shall then supersede
25 municipal air pollution ordinances, regulations, and requirements in
26 the affected jurisdiction. The cost of the administration shall be a
27 charge on the municipality.

28 (d) If the commission finds that the control of a particular class
29 of air contaminant source, because of its complexity or magnitude, is

1 beyond the reasonable capability of the local air pollution control
2 authorities or may be more efficiently and economically performed at
3 the state level, it may assume and retain jurisdiction over that class
4 of air contaminant source, but in this case no charge may be assessed
5 against the locality for the costs of administration. Classifications
6 under this subsection may be either on the basis of the nature of the
7 sources involved or on the basis of their relationship to the size of
8 the communities in which they are located.

9 (e) A municipality in which the commission administers the air
10 pollution control program under this section may with the approval of
11 the commission establish or resume a municipal program which meets the
12 requirements of sec. 170(a) of this chapter.

13 (f) The provisions of this chapter do not nullify a local air
14 pollution program in operation on the effective date of this chapter,
15 if the program meets the requirements of sec. 170(a) of this chapter
16 within two years from that date. Approval required from the commission
17 shall be considered granted unless the commission takes explicit action
18 to the contrary.

19 Sec. 18.31.190. STATE AND FEDERAL AID. (a) A local government
20 unit with an air pollution program meeting the requirements of this
21 chapter and the rules and regulations issued under it shall be eligible
22 for state aid equal to 30 per cent of the locally funded annual operat-
23 ing cost of the program. A joint or areawide program established under
24 sec. 170 of this chapter shall be entitled to state aid equal to 50
25 per cent of the locally funded operating cost. In the case of a joint
26 or areawide program the state aid may be based on the cost of the entire
27 program or, if the commission finds that one or more elements of
28 separately administered programs are being carried on jointly in a way
29 that materially increases the efficiency or effectiveness of the

1 programs, it may aid the element carried on under the interlocal agree-
2 ment at the rate applied to joint and areawide programs generally.

3 (b) Municipalities of the state and interlocal air pollution con-
4 trol agencies established under this chapter may apply for, receive,
5 administer and expend federal aid for the control of air pollution or
6 the development and administration of programs related to that control,
7 if the application is first submitted to and approved by the commission.
8 The commission shall approve an application if it is consistent with
9 this chapter and other applicable requirements of law.

10 Sec. 18.31.200. MOTOR VEHICLE POLLUTION. (a) As the state of
11 knowledge and technology relating to the control of emissions from
12 motor vehicles may permit or make appropriate, and in furtherance of the
13 purposes of this chapter, the commission may provide by rules and regu-
14 lations for the control of these emissions. The rules and regulations
15 may prescribe requirements for the installation and use of equipment
16 designed to reduce or eliminate emissions and for the proper maintenance
17 of this equipment. Rules and regulations issued under this section
18 shall be consistent with provisions of federal law, if any, relating
19 to control of emissions from motor vehicles. The commission may not
20 require, as a condition precedent to the initial sale of a vehicle or
21 vehicular equipment, the inspection, certification or other approval of
22 any feature or equipment designed for the control of emissions from
23 motor vehicles if the feature or equipment has been certified or other-
24 wise authorized under federal law.

25 (b) Except as permitted by law, no person may fail to maintain
26 in operation any equipment or feature constituting an operational
27 element of the air pollution control system or mechanism of a motor
28 vehicle if it is required by rules or regulations of the com-
29 mission to be maintained in or on the vehicle. A failure to maintain

1 this equipment in operation shall subject the owner or operator to
2 suspension or cancellation of the registration of the vehicle, and it
3 may not be again eligible for registration until this equipment is
4 restored to operation.

5 (c) The commission shall consult with the Department of Public
6 Safety and furnish it with technical information, including testing
7 techniques, standards and instructions for emission control features
8 and equipment.

9 (d) When the commission has issued rules and regulations requir-
10 ing the maintenance of features or equipment in or on motor vehicles
11 for the purpose of controlling emission from the vehicles, no motor
12 vehicle may be issued a certificate of inspection and approval if
13 required, unless the required features or equipment have been inspected
14 in accordance with the standards, testing techniques and instructions
15 furnished by the board and have been found to meet those standards.

16 Sec. 18.31.210. LIMITATIONS. This chapter does not

17 (1) grant to the commission jurisdiction or authority with
18 respect to air contamination existing solely within commercial and
19 industrial plants, works or shops;

20 (2) affect the relations between employers and employees with
21 respect to or arising out of a condition of air contamination or air
22 pollution;

23 (3) supersede or limit the applicability of a law or ordi-
24 nance relating to sanitation, industrial health or safety.

25 Sec. 18.31.220. ENFORCEMENT. (a) When the commission has reason
26 to believe that a violation of this chapter or a rule or regulation
27 issued under it other than sec. 240 of this chapter has occurred, the
28 commission may serve written notice upon the suspected violator. The
29 notice shall specify the provision believed to be violated and the

1 facts believed to constitute the violation and may include an order
2 that necessary corrective action be taken within a reasonable time.
3 This order shall become final unless within 15 days after the notice
4 and order are served the person named requests in writing a hearing
5 before the commission, which hearing shall be held within a reasonable
6 time. In lieu of an order the commission may require the suspected
7 violator to appear before the board for a hearing at a time and place
8 specified in the notice and answer the charges.

9 (b) If, after a hearing held under (a) of this section, the com-
10 mission finds that a violation has occurred, it shall affirm or modify
11 its order previously issued or issue an appropriate order for taking
12 corrective action. If the commission finds that no violation has oc-
13 curred it shall rescind its previous order, if any. An order issued
14 as part of a notice or after a hearing may prescribe the date by which
15 the violation shall cease and may prescribe timetables for necessary
16 action in preventing, abating or controlling the emissions.

17 (c) The commission may make efforts to obtain voluntary compliance
18 through warning, conference or other appropriate means.

19 (d) In connection with a hearing held under this section, the
20 commission shall have power and upon application by a party to the hear-
21 ing it shall have the duty to compel the attendance of witnesses and
22 the production of evidence on behalf of all parties.

23 Sec. 18.31.230. PENALTIES. (a) A person who violates a provision
24 of this chapter or a rule or regulation in force under it, other than
25 secs. 160, 200 and 240 of this chapter, upon conviction, is punishable
26 by a fine of not to exceed \$1,000. Each day of violation shall consti-
27 tute a separate offense.

28 (b) A person who violates sec. 160 of this chapter, knowing the
29 information to be of a confidential nature, upon conviction, is

1 punishable by a fine of not to exceed \$750.

2 (c) Conviction as specified in (a) and (b) of this section shall
3 not be a bar to enforcement of this chapter, and the rules, regulations
4 and orders issued under it. The commission shall have power to insti-
5 tute and maintain in the name of the state all enforcement proceedings.

6 (d) This chapter does not affect the right of a person to bring
7 an action for damages or other relief because of an injury caused by
8 air pollution.

9 Sec. 18.31.240. NUISANCES. (a) A person is guilty of creating
10 or maintaining a nuisance if he

11 (1) places or deposits upon a lot, street, beach, premises,
12 or upon, or within 200 feet of a public highway, unless the highway
13 abuts upon tidal waters, any garbage, offal, dead animals, or any other
14 matter or thing, which would be obnoxious or cause the spread of di-
15 sease or in any way endanger the health of the community;

16 (2) allows to be placed or deposited upon any premises owned
17 by him or under his control, garbage, offal, dead animals, or any other
18 matter or thing which would be obnoxious or offensive to the public or
19 which would produce, aggravate, or cause the spread of disease or in
20 any way endanger the health of the community.

21 (b) A person who neglects or refuses to abate the nuisance upon
22 order of a health officer is guilty of a misdemeanor and is punishable
23 as provided in sec. 250 of this chapter. In addition to this punish-
24 ment, the court shall assess judgment against the defendant for the
25 expenses of abating the nuisance. The judgment shall be enforced in
26 the same manner as an execution in a civil action.

27 Sec. 18.31.250. PENALTY FOR VIOLATION OF SEC. 240 OF THIS CHAPTER
28 A person who violates sec. 240 of this chapter upon conviction is
29 punishable by a fine of not less than \$10 nor more than \$50, or by

1 imprisonment for not less than five nor more than 25 days, or by both.

2 Sec. 18.31.260. DEFINITIONS. In this chapter

3 (1) "air contaminant" means dust, fumes, mist, smoke, other
4 particulate matter, vapor, gas, odorous substances or a combination of
5 these;

6 (2) "air pollution" means the presence in the outdoor
7 atmosphere of one or more air contaminants in quantities and duration
8 that tend to be injurious to human health or welfare, animal or plant
9 life or property or would unreasonably interfere with the enjoyment of
10 life or property;

11 (3) "commission" means the Air Pollution Control Commission;

12 (4) "motor vehicle" has the same meaning as in AS 28.20.630;

13 (5) "municipality" means an organized borough or an incorpo-
14 rated city outside an organized borough and includes all classes of
15 boroughs and cities whether home rule or otherwise.

16 * Sec. 2. AS 07.20.070(d) is amended to read:

17 (d) When the assembly votes on an ordinance or resolution in
18 exercising one or more of the powers prescribed by AS 07.15.010(7)(A),
19 07.15.030(1), 07.15.060, 07.15.320, 07.15.330, 07.15.340, [OR] 07.15.-
20 350, or AS 18.31, the votes shall be weighted as provided in this sub-
21 section to enable the assemblymen who represent a majority of the
22 borough's population to have a majority of the votes.

23 (1) If one first class city has a majority of the borough's
24 population, the votes of the assemblymen representing that city shall
25 be weighted in the manner prescribed by (3) of this subsection.

26 (2) If one first class city does not have a majority of the
27 borough's population, but two or more first class cities do have a
28 majority of the borough's population, the votes of the assemblymen
29 representing all the first class cities shall be weighted in the

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manner prescribed by (4) of this subsection.

(3) The weight to be given to each vote cast by the assemblymen present and voting who represent a first class city which has a majority of the borough's population shall be determined by dividing the number of all other assembly seats plus one by the number of all assembly seats apportioned to the first class city which has a majority of the population.

(4) The weight to be given to each vote cast by assemblymen present and voting who represent the first class cities which have a majority of the borough's population shall be determined by dividing the number of all assembly seats apportioned to the area outside cities plus one by the number of all assembly seats apportioned to the first class cities.

(5) If the area outside first class cities has the majority of the borough's population, no special weight may be used, and the vote of each assemblyman present and voting shall count as one.