

Original sponsor: Palmer

Offered: 3/24/69
Referred: Rules

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 8

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - FIRST 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 AS 18.30 is repealed.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
17 plant and animal life and property, foster the comfort and convenience
18 of the people, promote the economic and social development of the
19 state and facilitate the enjoyment of the natural attractions of the
20 state.

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

25 (c) To these ends it is the purpose of this chapter to
26 (1) provide for a coordinated statewide program of air
27 pollution prevention, abatement and control;
28 (2) provide for an appropriate distribution of responsi-
29 bilities among the state and local units of government;

1 (3) facilitate cooperation across jurisdictional lines in
2 dealing with problems of air pollution not confined within single
3 jurisdictions;

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

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

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

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

1 chairman. Special meetings shall be called by the chairman upon the
2 written request of four members. Five members shall constitute a
3 quorum. Each of the four department heads on the commission may
4 designate a principal deputy or assistant to act in his place on the
5 commission.

6 Sec. 18.31.050. EXPENSES. Members of the commission receive
7 no salary, but are entitled to per diem and travel expenses as pro-
8 vided by law while attending commission business.

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

17 Sec. 18.31.070. ADMINISTRATIVE SUPERVISION. The commission is
18 under the general administrative supervision of the commissioner of
19 health and welfare.

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

- 22 (1) adopt rules and regulations implementing this chapter;
- 23 (2) hold hearings relating to any aspect of the adminis-
24 tration of this chapter and in that regard compel the attendance of
25 witnesses and the production of evidence;
- 26 (3) issue orders necessary to effectuate the purposes of
27 this chapter and enforce them by appropriate administrative and
28 judicial proceedings;
- 29 (4) require access to records relating to emissions which

1 cause or contribute to air contamination;

2 (5) secure necessary scientific, technical, administrative
3 and operational services, including laboratory facilities, by contract
4 or otherwise;

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

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

9 (8) encourage local units of government to handle air pol-
10 lution problems within their respective jurisdictions and on a coopera-
11 tive basis, and provide technical and consultative assistance for this;

12 (9) encourage and conduct studies, investigations and
13 research relating to air contamination and air pollution and their
14 causes, effects, prevention, abatement and control;

15 (10) determine by means of field studies and sampling the
16 degree of air contamination and air pollution in the several areas
17 of the state;

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

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

24 (13) collect and disseminate information and conduct
25 educational and training programs relating to air contamination and
26 air pollution;

27 (14) advise, consult, contract and cooperate with other
28 agencies of the state, local governments, industries, other states,
29 interstate or interlocal agencies, the federal government and with

1 interested persons or groups;

2 (15) consult, upon request, with any person proposing to
3 construct, install, or otherwise acquire an air contaminant source or
4 a device or system for its control, concerning the efficacy of the
5 device or system or the air pollution problem which may be related to
6 the source, device or system; nothing in this consultation may be
7 construed to relieve a person from compliance with this chapter, rules
8 and regulations in force under it or other provisions of law;

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

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

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

29 Sec. 18.31.100. ADDITIONAL CONTAMINANT CONTROL MEASURES. (a)

1 The commission may require that notice be given to it before the
2 undertaking of the construction, installation or establishment of
3 particular types or classes of new air contaminant sources specified
4 in its rules and regulations. Within 15 days of its receipt of the
5 notice, the commission may require, as a condition precedent to this
6 undertaking, the submission of plans and other information it con-
7 siders necessary in order to determine whether the proposed under-
8 taking will be in accord with applicable rules and regulations in force
9 under this chapter. If within 30 days of the receipt of these plans
10 and information the commission determines that the proposed under-
11 taking will not be in accord with the requirements of this chapter
12 and applicable rules and regulations, it shall issue an order prohibit-
13 ing the undertaking. Failure to issue the order within the time
14 prescribed shall be considered an approval of the plans and infor-
15 mation and the undertaking may proceed in accordance with them.

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

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

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

29 (e) Nothing in this section may be construed to authorize the

1 commission to require the use of machinery, devices or equipment from
2 a particular supplier or produced by a particular manufacturer if the
3 required performance standards may be met by machinery, devices or
4 equipment available from other sources.

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

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

12 Sec. 18.31.110. INSPECTION. For the purpose of ascertaining the
13 state of compliance with this chapter and appropriate rules and regula-
14 tions a duly authorized officer, employee or representative of the com-
15 mission may, at a reasonable time, enter and inspect the property and
16 premises where an air contaminant source is located or is being con-
17 structed. No person may refuse entry or access to an authorized
18 representative of the commission who requests entry for purposes of
19 inspection and who presents appropriate credentials; nor may a person
20 interfere with the inspection. The commission shall give the person
21 who owns or is in control of the premises a report setting out all
22 facts found which relate to compliance status. Inspection of private
23 dwellings shall not be permitted without a search warrant.

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

1 Sec. 18.31.130. EMERGENCY PROCEDURE. (a) If the director finds
2 that a generalized condition of air pollution exists and that it creates
3 an emergency requiring immediate action to protect human health or
4 safety he shall, with the concurrence of the governor, order persons
5 causing or contributing to the air pollution to reduce or discontinue
6 immediately the emission of air contaminants. The order shall fix a
7 place and time, not more than 24 hours later, for a hearing to be held
8 before the commission. Within 24 hours after the commencement of the
9 hearing, and without adjournment of it, the commission shall affirm,
10 modify or set aside the order of the director.

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

18 (c) Nothing in this section may be construed to limit the constitu-
19 tional, statutory or inherent power of the governor or other officer to
20 declare an emergency and act on the basis of that declaration.

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

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

28 (2) compliance with the rules or regulations from which
29 variance is sought would produce serious hardship without equal or

1 greater benefits to the public.

2 (b) No variance may be granted under this section until the
3 commission has considered the relative interests of the applicant,
4 other owners of property likely to be affected by the emissions and
5 the general public.

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

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

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

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

27 (d) A variance granted under this section may be renewed on
28 terms and conditions and for periods which would be appropriate on
29 initial granting of a variance. If complaint is made to the

1 commission on account of the variance no renewal of it shall be granted
2 unless, after public hearing on the complaint following due notice,
3 the commission finds that renewal is justified. No renewal may be
4 granted except upon application for it. This application shall be made
5 at least 60 days before the expiration of the variance. Immediately
6 upon receipt of an application for renewal the commission shall give
7 public notice of it.

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

15 (f) No variance or renewal granted under this section may be
16 construed to prevent or limit the application of the emergency pro-
17 visions of sec. 130 of this chapter.

18 Sec. 18.31.150. APPLICABILITY OF THE ADMINISTRATIVE PROCEDURE
19 ACT. Except as otherwise specifically provided in this chapter, the
20 Administrative Procedure Act (AS 44.62) governs the activities and the
21 proceedings of the commission.

22 Sec. 18.31.160. CONFIDENTIALITY OF RECORDS. Unless the owner or
23 operator expressly agrees to their publication or availability to the
24 general public, records and information in the possession of the commis-
25 sion concerning a contaminant source, which records and information re-
26 late to production or sales figures or to processes or production unique
27 to the owner or operator or which would tend to adversely affect his
28 competitive position, as certified by him, shall be only for the
29 confidential use of the commission on an incamera basis in the

1 administration of this chapter. The commission may, nevertheless, use
2 these records and information in compiling analyses or summaries
3 relating to the general condition of the outdoor atmosphere so long
4 as the owner or operator is not identified and no information speci-
5 fied in the preceding sentence is revealed.

6 Sec. 18.31.170. LOCAL AIR POLLUTION CONTROL PROGRAMS. (a) A
7 municipality with a population in excess of 1,000 may within five
8 years from the effective date of this chapter, establish and adminis-
9 ter within its jurisdiction an air pollution control program.
10 Organized boroughs may establish the air pollution control program
11 on an areawide basis, and the exercise of powers with respect to the
12 program is not subject to the restrictions on acquiring additional area-
13 wide powers specified in AS 07.15.350. However, the weighted vote shall
14 apply to the exercise of powers as provided in AS 07.20.070(d). This
15 program shall

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

19 (2) provide for the enforcement of the requirements by
20 appropriate administrative and judicial process;

21 (3) provide for administrative organization, staff,
22 financial and other resources necessary to effectively and efficiently
23 carry out the program; and

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

26 (b) Other municipalities may establish and administer air
27 pollution control programs if they meet the requirements of (a)(1) -
28 (4) of this section.

29 (c) A municipality may administer all or part of its air

1 pollution control program in cooperation with one or more municipali-
2 ties.

3 (d) If the commission finds that the location, character or
4 extent of particular concentrations of population, air contaminant
5 sources, the geographic, topographic or meteorological considerations,
6 or a combination of these factors, make impracticable the maintenance
7 of appropriate levels of air quality without an areawide air pollution
8 control program, the commission may determine the boundaries within
9 which the program is necessary and require it as the only acceptable
10 alternative to direct state administration.

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

21 (b) If, after the hearing, the commission determines that any of
22 the deficiencies enumerated in (a) of this section exist, it shall
23 require that necessary corrective action be taken within a reasonable
24 period of time, not to exceed 90 days.

25 (c) If the municipality or the district set up under sec. 170(a)
26 or (d) of this chapter fails to take the necessary corrective action
27 within the time specified the commission shall administer in the munici-
28 pality or district all of the regulatory provisions of this chapter.
29 The commission's air pollution control program shall then supersede

1 municipal air pollution ordinances, regulations, and requirements in
2 the affected jurisdiction.

3 (d) If the commission finds that the control of a particular
4 class of air contaminant source, because of its complexity or magni-
5 tude, is beyond the reasonable capability of the local air pollution
6 control authorities or may be more efficiently and economically per-
7 formed at the state level, it may assume and retain jurisdiction over
8 that class of air contaminant source. Classifications under this
9 subsection may be either on the basis of the nature of the sources
10 involved or on the basis of their relationship to the size of the
11 communities in which they are located.

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

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

22 Sec. 18.31.190. STATE AND FEDERAL AID. (a) A local government unit
23 with an air pollution program meeting the requirements of this chapter
24 and the rules and regulations issued under it may apply to the state for
25 state aid equal to 75 per cent of the locally funded annual operating
26 cost of the program. For a joint or areawide program established under
27 sec. 170 of this chapter application may be made for state aid equal
28 to 75 per cent of the locally funded operating cost. In the case of
29 a joint or areawide program the state aid may be based on the cost of

1 the entire program or, if the commission finds that one or more
2 elements of separately administered programs are being carried on
3 jointly in a way that materially increases the efficiency or effec-
4 tiveness of the programs, it may aid the element carried on under the
5 interlocal agreement at the rate applied to joint and areawide pro-
6 grams generally.

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

14 Sec. 18.31.195. CONSTRUCTION AND IMPLEMENTATION OF SEC. 190. (a)
15 Sec. 190 of this chapter may not be construed so as to create a debt of
16 the state.

17 (b) The air pollution control support account is established.
18 Funds to carry out the provisions for state aid under sec. 190 of this
19 chapter may be appropriated annually by the legislature to the account.
20 If amounts in the account are insufficient for the purpose of the state
21 aid authorized under sec. 190 of this chapter, such funds as are avail-
22 able shall be distributed pro rata among eligible local governments or
23 air pollution control districts.

24 (c) Money in the air pollution control support account which, at
25 the end of the fiscal year for which the money is appropriated, exceeds
26 the amount required for the allocations authorized in this chapter
27 reverts to the general fund.

28 Sec. 18.31.200. MOTOR VEHICLE POLLUTION. (a) As the state of
29 knowledge and technology relating to the control of emissions from

1 motor vehicles may permit or make appropriate, and in furtherance of
2 the purposes of this chapter, the commission may provide by rules and
3 regulations for the control of these emissions. The rules and regula-
4 tions may prescribe requirements for the installation and use of
5 equipment designed to reduce or eliminate emissions and for the proper
6 maintenance of this equipment.

7 (b) Except as permitted by law, no person may fail to maintain
8 in operation any equipment or feature constituting an operational
9 element of the air pollution control system or mechanism of a motor
10 vehicle if it is required by rules or regulations of the commission
11 to be maintained in or on the vehicle. A failure to maintain this
12 equipment in operation shall subject the owner or operator to suspension
13 or cancellation of the registration of the vehicle, and it may not be
14 again eligible for registration until this equipment is restored to
15 operation.

16 (c) The commission shall consult with the Department of Public
17 Safety and furnish it with technical information, including testing
18 techniques, standards and instructions for emission control features
19 and equipment.

20 (d) When the commission has issued rules and regulations requiring
21 the maintenance of features or equipment in or on motor vehicles
22 for the purpose of controlling emission from the vehicles, no motor
23 vehicle may be issued a certificate of inspection and approval if re-
24 quired, unless the required features or equipment have been inspected
25 in accordance with the standards, testing techniques and instructions
26 furnished by the board and have been found to meet those standards.

27 Sec. 18.31.210. LIMITATIONS. This chapter does not

28 (1) grant to the commission jurisdiction or authority with
29 respect to air contamination existing solely within commercial and

1 industrial plants, works or shops;

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

5 (3) supersede or limit the applicability of a law or
6 ordinance relating to sanitation, industrial health or safety.

7 Sec. 18.31.220. ENFORCEMENT. (a) When the commission has
8 reason to believe that a violation of this chapter or a rule or regu-
9 lation issued under this chapter has occurred, the commission may
10 serve written notice upon the suspected violator. The notice shall
11 specify the provision believed to be violated and the facts believed
12 to constitute the violation and may include an order that necessary
13 corrective action be taken within a reasonable time. This order shall
14 become final unless within 15 days after the notice and order are served
15 the person named requests in writing a hearing before the commission,
16 which hearing shall be held within a reasonable time. In lieu of an
17 order the commission may require the suspected violator to appear
18 before the board for a hearing at a time and place specified in the
19 notice and answer the charges.

20 (b) If, after a hearing held under (a) of this section, the
21 commission finds that a violation has occurred, it shall affirm or
22 modify its order previously issued or issue an appropriate order for
23 taking corrective action. If the commission finds that no violation
24 has occurred it shall rescind its previous order, if any. An order
25 issued as part of a notice or after a hearing may prescribe the date
26 by which the violation shall cease and may prescribe timetables for
27 necessary action in preventing, abating or controlling the emissions.

28 (c) The commission may make efforts to obtain voluntary compli-
29 ance through warning, conference or other appropriate means.

1 (d) In connection with a hearing held under this section, the
2 commission shall have power and upon application by a party to the
3 hearing it shall have the duty to compel the attendance of witnesses
4 and the production of evidence on behalf of all parties.

5 Sec. 18.31.230. PENALTIES. (a) In addition to procedures pro-
6 vided by sec. 220 of this chapter, a person who violates a provision of
7 this chapter or a rule or regulation in force under it, other than
8 secs. 160,200 and 240 of this chapter, upon conviction, is punishable
9 by a fine of not to exceed \$1,000. Each day of violation shall consti-
10 tute a separate offense.

11 (b) A person who violates sec. 160 of this chapter, knowing the
12 information to be of a confidential nature, upon conviction is punish-
13 able by a fine of not to exceed \$750.

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

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

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

23 (1) places or deposits upon a lot, street, beach, premises,
24 or upon, or within 200 feet of a public highway, unless the highway
25 abuts upon tidal waters, any garbage, offal, dead animals, or any other
26 matter or thing, which would be obnoxious or cause the spread of
27 disease or in any way endanger the health of the community;

28 (2) allows to be placed or deposited upon any premises owned
29 by him or under his control garbage, offal, dead animals, or any other

1 matter or things which would be obnoxious or offensive to the public
2 or which would produce, aggravate, or cause the spread of disease or in
3 any way endanger the health of the community.

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

10 Sec. 18.31.250. PENALTY FOR VIOLATION OF SEC. 240 OF THIS CHAPTER.
11 A person who violates sec. 240 of this chapter upon conviction is
12 punishable by a fine of not less than \$10 nor more than \$50, or by
13 imprisonment for not less than five nor more than 25 days, or by both.

14 Sec. 18.31.260. DEFINITIONS. In this chapter

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

18 (2) "air pollution" means the presence in the outdoor atmos-
19 phere of one or more air contaminants in quantities and duration
20 that tend to be injurious to human health or welfare, animal or plant
21 life or property or would unreasonably interfere with the enjoyment of
22 life or property;

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

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

25 (5) "municipality" means an organized borough or an incor-
26 porated city outside an organized borough and includes all classes of
27 boroughs and cities whether home rule or otherwise.

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

29 (d) When the assembly votes on an ordinance or resolution in

1 exercising one or more of the powers prescribed by AS 07.15.010(7)(A),
2 07.15.030(1), 07.15.060, 07.15.320, 07.15.330, 07.15.340, 07.15.350,
3 [OR] 07.15.360, or AS 18.31, the votes shall be weighted as provided
4 in this subsection to enable the assemblymen who represent a majority
5 of the borough's population to have a majority of the votes.

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

9 (2) If one first class city does not have a majority of
10 the borough's population, but two or more first class cities do have
11 a majority of the borough's population, the votes of the assemblymen
12 representing all the first class cities shall be weighted in the
13 manner prescribed by (4) of this subsection.

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

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

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

29 **Sec. 3. AS 12.35.020 is amended by adding a new paragraph to read:**

1 (5) If either reasonable legislative or administrative
2 standards for conducting a routine or area inspection with regard to
3 air pollution are satisfied with respect to the particular place,
4 dwelling, structure, premises, or vehicle, or there is reason to be-
5 lieve that a condition of nonconformity exists with respect to the
6 particular place, dwelling, structure, premises, or vehicle, a search
7 warrant may be issued permitting the applicant to inspect the premises.
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