**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 48‑1‑105 SO AS TO PROHIBIT THE EMISSION OF AIR CONTAMINANTS FROM A REGULATED SOURCE THAT CREATES A NUISANCE, TO ESTABLISH AIR CONTAMINANT NUISANCE CRITERIA, AND TO REQUIRE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL’S BUREAU OF ENVIRONMENTAL HEALTH SERVICES TO OVERSEE SUCH ENFORCEMENT ACTIONS; TO AMEND SECTION 48‑1‑10, RELATING TO TERMS DEFINED IN THE “POLLUTION CONTROL ACT”, SO AS TO CHANGE THE DEFINITION FOR “UNDESIRABLE LEVEL”; AND AMEND SECTION 48‑1‑100, RELATING TO PERMITS FOR THE DISCHARGE OF AIR CONTAMINANTS, SO AS TO REQUIRE INSTALLATION AND OPERATION OF EQUIPMENT TO MINIMIZE ODOR‑BEARING GASES OR PARTICULATE MATTER AS PART OF PERMIT CONDITIONS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 1, Title 48 of the 1976 Code is amended by adding:

“Section 48‑1‑105. (A) No person may cause or allow air contaminants from any source subject to regulation by the department to cause a nuisance. In determining whether air contaminant emissions create a nuisance, the department may consider, among other factors:

(1) frequency of the emission;

(2) duration of the emission;

(3) strength or intensity of the emissions, odors, or other offending properties;

(4) number of people impacted;

(5) the suitability of each party’s use to the character of the locality in which it is conducted;

(6) extent and character of the harm to complainants; or

(7) the source’s ability to prevent or avoid harm.

(B) Upon determining that a nuisance may exist, the department shall provide written notice to the person creating the suspected nuisance and shall take such action as authorized pursuant to this chapter, including in Sections 48‑1‑120, 48‑1‑130, and 48‑1‑290, as is necessary to control such condition.

(C) The Bureau of Environmental Health Services of the Department of Health and Environmental Control shall oversee action taken by the department pursuant to this section and compliance by a person subject to any such corrective action.

(D) An order issued pursuant to this section must specify the conditions and time within which such discontinuance must be accomplished. If the air contaminants creating the nuisance are emitted from a permitted source, the department may establish emission limits or other appropriate permit conditions to mitigate the nuisance.”

SECTION 2. Section 48‑1‑10(18) of the 1976 Code is amended to read:

“(18) ‘Undesirable level’ means the presence in the outdoor atmosphere of one or more air contaminants or any combination thereof in sufficient quantity and of such characteristics and duration as to create a nuisance or otherwise be injurious to human health or welfare, or to damage plant, animal or marine life, to property or which unreasonably interfere with enjoyment of life or use of property;”

SECTION 3. Section 48‑1‑100(A) of the 1976 Code is amended to read:

“(A) A person affected by the provisions of this chapter or the rules and regulations adopted by the department desiring to make a new outlet or source, or to increase the quantity of discharge from existing outlets or sources, for the discharge of sewage, industrial waste or other wastes, or the effluent therefrom, or air contaminants, into the waters or ambient air of the State, first shall make an application to the department for a permit to construct and a permit to discharge from the outlet or source. If, after appropriate public comment procedures, as defined by department regulations, the department finds that the discharge from the proposed outlet or source will not be in contravention of provisions of this chapter, a permit to construct and a permit to discharge must be issued to the applicant. The department, if sufficient hydrologic and environmental information is not available for it to make a determination of the effect of the discharge, may require the person proposing to make the discharge to conduct studies that will enable the department to determine that its quality standards will not be violated. In issuing a permit that allows for the discharge of air contaminants, the department shall require the person proposing to make the discharge to install and operate control apparatus and equipment to reduce to a minimum odor‑bearing gases or odor‑bearing particulate matter discharged into the ambient air.”

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 3. This act takes effect upon approval by the Governor.

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