

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 20-0069.01 Thomas Morris x4218

HOUSE BILL 20-1265

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A BILL FOR AN ACT

101 **CONCERNING INCREASED PUBLIC PROTECTIONS FROM EMISSIONS OF**
102 **AIR TOXICS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill creates a new program to regulate emissions of a subset of hazardous air pollutants, referred to as "covered air toxics", which are defined as hydrogen cyanide, hydrogen fluoride, hydrogen sulfide, benzene, and other hazardous air pollutants specified by the air quality control commission by rule. A stationary source of air pollutants that reported in its federal toxics release inventory filing at least one of the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
June 4, 2020

following amounts of a covered air toxic in one year is defined as a "covered facility":

- ! For hydrogen cyanide, 10,000 pounds;
- ! For hydrogen fluoride, 10,000 pounds;
- ! For hydrogen sulfide, 5,000 pounds; and
- ! For benzene, 1,000 pounds.

At least every 5 years beginning in 2026, the commission will review the best available science and adjust, as necessary to protect public health, the list of covered air toxics and their associated emission levels.

The commission will:

- ! Regulate covered air toxics more strictly than is required by the federal clean air act;
- ! Require covered facilities to monitor their emissions of covered air toxics;
- ! Set health-based emission limits for covered air toxics if no such limit exists under state or federal law; and
- ! Establish a real-time community alert system for "incidents", which are unauthorized emissions of an air pollutant from a covered facility.

The division of administration in the department of public health and environment will:

- ! Consider and prevent adverse cumulative impacts from covered facilities' emissions of hazardous air pollutants when processing air pollution permits for covered facilities that are located in or near disproportionately impacted communities, as determined by the commission by rule;
- ! Approve a new or amended permit for a covered facility only if there is no net increase in the adverse cumulative impacts of hazardous air pollutant emissions above existing levels in each disproportionately impacted community affected by the emissions; and
- ! If existing emissions of hazardous air pollutants exceed the health-based emission limits or have unacceptable adverse cumulative impacts on any disproportionately impacted community, require a decrease or cessation in the applicable emissions over the shortest practicable time until the emissions comply with the health-based emission limits and no longer have unacceptable adverse cumulative impacts on any disproportionately impacted community.

Covered facilities will:

- ! Monitor their covered air toxics emissions and make the monitoring data widely available, including to the public; and
- ! Promptly disseminate information regarding an incident pursuant to the commission's real-time community alert

system to the public, affected local governments and other community entities, and local emergency planning and response organizations.

The bill specifies violations for a covered facility that is covered by specified federal regulations based on the unauthorized emission of an air pollutant from a flare or pressure relief device and any uncontrolled atmospheric release of an air pollutant from an organic hazardous air pollutant pressure relief device. The commission will review its rules for these facilities and specifically consider adopting more stringent provisions, including:

- ! A requirement that leak detection and repair inspections occur at these facilities on, at a minimum, a semiannual basis or that an alternative approved instrument monitoring method is in place pursuant to existing rules; and
- ! Reductions in fugitive emissions from equipment leaks and wastewater at these facilities.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add 25-7-141** as
3 follows:

4 **25-7-141. Public notice of air quality incidents - duties of**
5 **covered entities - definitions.** (1) AS USED IN THIS SECTION:

6 (a) "COVERED AIR TOXIC" MEANS HYDROGEN CYANIDE, HYDROGEN
7 SULFIDE, AND BENZENE.

8 (b) "COVERED FACILITY" MEANS A STATIONARY SOURCE THAT
9 REPORTED AT LEAST ONE OF THE FOLLOWING AMOUNTS OF A COVERED AIR
10 TOXIC IN ITS FEDERAL TOXICS RELEASE INVENTORY FILING PURSUANT TO
11 42 U.S.C. SEC. 11023 FOR THE YEAR 2017 OR LATER:

12 (I) FOR HYDROGEN CYANIDE, TEN THOUSAND POUNDS;

13 (II) FOR HYDROGEN SULFIDE, FIVE THOUSAND POUNDS; AND

14 (III) FOR BENZENE, ONE THOUSAND POUNDS.

15 (c) "EMERGENCY NOTIFICATION SERVICE" HAS THE MEANING
16 ESTABLISHED IN SECTION 29-11-101 (1.5).

1 (d) "INCIDENT" MEANS THE EMISSION BY A COVERED FACILITY OF
2 AN AIR POLLUTANT AT A RATE OR QUANTITY THAT EXCEEDS ALLOWABLE
3 EMISSIONS AS A RESULT OF ANTICIPATED OR UNANTICIPATED
4 CIRCUMSTANCES, INCLUDING A MALFUNCTION, START-UP, SHUTDOWN,
5 UPSET, OR EMERGENCY.

6 (2) EACH COVERED FACILITY SHALL:

7 (a) CONDUCT OUTREACH TO REPRESENTATIVES OF THE
8 COMMUNITY SURROUNDING THE COVERED FACILITY TO DISCUSS
9 COMMUNICATIONS REGARDING THE OCCURRENCE OF AN INCIDENT,
10 INCLUDING:

11 (I) METHODS BY WHICH THE COVERED FACILITY CAN DISSEMINATE
12 INFORMATION TO THE COMMUNITY AND METHODS BY WHICH COMMUNITY
13 MEMBERS CAN CONTACT THE COVERED FACILITY REGARDING AN INCIDENT;
14 AND

15 (II) PROVISIONS FOR COMMUNICATIONS IN SPANISH;

16 (b) USE AN EMERGENCY NOTIFICATION SERVICE THROUGH WHICH
17 THE COVERED FACILITY WILL COMMUNICATE WITH, AND MAKE DATA
18 AVAILABLE TO, THE COMMUNITY SURROUNDING THE COVERED FACILITY
19 REGARDING THE OCCURRENCE OF AN INCIDENT;

20 (c) IMPLEMENT THE EMERGENCY NOTIFICATION SERVICE WITHIN
21 SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION; AND

22 (d) PAY ALL COSTS ASSOCIATED WITH ITS USE OF THE EMERGENCY
23 NOTIFICATION SERVICE.

24 **SECTION 2. Applicability.** This act applies to conduct occurring
25 on or after the effective date of this act.

26 **SECTION 3. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, or safety.