

Senate Bill 197

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires Environmental Quality Commission to adopt by rule program for regulating air contaminant emissions from dairy confined animal feeding operations. Authorizes commission and State Department of Agriculture to enter memorandum of understanding for department to operate program.

Becomes operative January 1, 2019.

Requires commission to report on program to interim committees on environment and natural resources no later than September 15, 2020.

A BILL FOR AN ACT

1 Relating to dairy air contaminants; creating new provisions; and amending ORS 468A.020.

2 **Be It Enacted by the People of the State of Oregon:**

3 **SECTION 1. Sections 2 and 3 of this 2017 Act are added to and made a part of ORS**
4 **chapter 468A.**

5 **SECTION 2. (1) As used in this section, "confined animal feeding operation" has the**
6 **meaning given that term in ORS 468B.205.**

7 **(2) The Environmental Quality Commission shall adopt by rule a program for regulating**
8 **air contaminant emissions from dairy confined animal feeding operations. To the extent**
9 **feasible, the program adopted under this section shall be based on the recommendations of**
10 **the Task Force on Dairy Air Quality created under section 3, chapter 799, Oregon Laws 2007.**

11 **(3) In adopting rules as required by this section, the commission shall consult with the**
12 **State Department of Agriculture, the Department of Human Services, the Natural Resources**
13 **Conservation Service of the United States Department of Agriculture and other interested**
14 **state and federal agencies, and shall be advised by an advisory committee appointed by the**
15 **commission. The advisory committee shall include representatives of interested parties, in-**
16 **cluding but not limited to representatives of:**

17 **(a) The dairy industry;**

18 **(b) Environmental public interest organizations; and**

19 **(c) Institutions of higher education who have expertise in science and technology rele-**
20 **vant to air emissions generated by dairies.**

21 **SECTION 3. (1) The Environmental Quality Commission and the State Department of**
22 **Agriculture may enter into a memorandum of understanding providing for the State De-**
23 **partment of Agriculture to operate a program for regulating air contaminant emissions from**
24 **dairy confined animal feeding operations under section 2 of this 2017 Act.**

25 **(2) Subject to the terms of the memorandum of understanding authorized by subsection**
26 **(1) of this section, the State Department of Agriculture:**
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NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (a) May perform any function of the Environmental Quality Commission or the Depart-
2 ment of Environmental Quality relating to the control and prevention of air contaminant
3 emissions from a confined animal feeding operation.

4 (b) May enter onto and inspect, at any reasonable time, a confined animal feeding oper-
5 ation or appurtenant land for the purpose of investigating a source of air contaminant
6 emissions or to ascertain compliance with a statute, rule, standard or permit condition re-
7 lating to the control or prevention of air contaminant emissions from the operation. The
8 State Department of Agriculture shall have access to a pertinent record of a confined animal
9 feeding operation, including but not limited to a blueprint, design drawing and specification,
10 maintenance record or log, or an operating rule, procedure or plan.

11 **SECTION 4.** ORS 468A.020 is amended to read:

12 468A.020. (1) Except as provided in subsection (2) of this section, the air pollution laws con-
13 tained in ORS chapters 468, 468A and 468B do not apply to:

14 (a) Agricultural operations, including but not limited to:

15 (A) Growing or harvesting crops;

16 (B) Raising fowl or animals;

17 (C) Clearing or grading agricultural land;

18 (D) Propagating and raising nursery stock;

19 (E) Propane flaming of mint stubble; and

20 (F) Stack or pile burning of residue from Christmas trees, as defined in ORS 571.505, during the
21 period beginning October 1 and ending May 31 of the following year.

22 (b) Equipment used in agricultural operations, except boilers used in connection with propagat-
23 ing and raising nursery stock.

24 (c) Barbecue equipment used in connection with any residence.

25 (d) Heating equipment in or used in connection with residences used exclusively as dwellings for
26 not more than four families, except solid fuel burning devices, as defined in ORS 468A.485, that are
27 subject to regulation under this section and ORS 468A.140 and 468A.460 to 468A.515.

28 (e) Fires set or permitted by any public agency when such fire is set or permitted in the per-
29 formance of its official duty for the purpose of weed abatement, prevention or elimination of a fire
30 hazard, or instruction of employees in the methods of fire fighting, which in the opinion of the
31 agency is necessary.

32 (f) Fires set pursuant to permit for the purpose of instruction of employees of private industrial
33 concerns in methods of fire fighting, or for civil defense instruction.

34 (2) Subsection (1) of this section does not apply to the extent:

35 (a) Otherwise provided in ORS 468A.555 to 468A.620, 468A.790, 468A.992, 476.380 and 478.960;

36 (b) Necessary to implement the federal Clean Air Act (P.L. 88-206 as amended) under ORS
37 468A.025, 468A.030, 468A.035, 468A.040, 468A.045 and 468A.300 to 468A.330; or

38 (c) Necessary for the Environmental Quality Commission[, *in the commission's discretion, to im-*
39 *plement a recommendation of the Task Force on Dairy Air Quality created under section 3, chapter*
40 *799, Oregon Laws 2007, for the regulation of dairy air contaminant emissions.*] **to implement rules**
41 **for a program for regulating air contaminant emissions from dairy confined animal feeding**
42 **operations adopted under section 2 of this 2017 Act.**

43 (3)(a) Except to the extent necessary to implement the federal Clean Air Act (P.L. 88-206 as
44 amended), the air pollution laws contained in ORS 468A.025, 468A.030, 468A.035, 468A.040, 468A.045
45 and 468A.300 to 468A.330 do not apply to carbon dioxide emissions from the combustion or decom-

1 position of biomass.

2 (b) As used in this subsection, "biomass" means:

3 (A) Nonfossilized and biodegradable organic materials that originate from plants, animals and
4 microorganisms and that are products, byproducts, residues or wastes from agriculture, forestry and
5 related industries;

6 (B) Nonfossilized and biodegradable organic fractions of industrial and municipal wastes; and

7 (C) Gases and liquids recovered from the decomposition of nonfossilized and biodegradable or-
8 ganic matter.

9 **SECTION 5. (1) Sections 2 and 3 of this 2017 Act and the amendments to ORS 468A.020**
10 **by section 4 of this 2017 Act become operative on January 1, 2019.**

11 **(2) The Environmental Quality Commission may adopt rules before the operative date**
12 **specified in subsection (1) of this section or take any actions before the operative date**
13 **specified in subsection (1) of this section that are necessary to carry out the provisions of**
14 **sections 2 and 3 of this 2017 Act and the amendments to ORS 468A.020 by section 4 of this**
15 **2017 Act. Any rules adopted by the commission under this subsection do not become opera-**
16 **tive until January 1, 2019.**

17 **SECTION 6. The Department of Environmental Quality shall submit a report on the im-**
18 **plementation of sections 2 and 3 of this 2017 Act, which may include recommendations for**
19 **legislation, to the interim legislative committees on environment and natural resources on**
20 **or before September 15, 2020.**

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