

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 140**

Introduced By: Flood, 19;  
Read first time: January 8, 2007  
Committee: Natural Resources

A BILL

1 FOR AN ACT relating to the Department of Environmental Quality;  
2 to amend section 81-1504, Reissue Revised Statutes of  
3 Nebraska; to provide copies of complaints as prescribed; and  
4 to repeal the original section.  
5 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 81-1504, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           81-1504. The department shall have and may exercise the  
4 following powers and duties:

5           (1) To exercise exclusive general supervision of the  
6 administration and enforcement of the Environmental Protection Act,  
7 the Integrated Solid Waste Management Act, the Livestock Waste  
8 Management Act, and all rules and regulations and orders promulgated  
9 under such acts;

10           (2) To develop comprehensive programs for the prevention,  
11 control, and abatement of new or existing pollution of the air,  
12 waters, and land of the state;

13           (3) To advise and consult, cooperate, and contract with  
14 other agencies of the state, the federal government, and other states,  
15 with interstate agencies, and with affected groups, political  
16 subdivisions, and industries in furtherance of the purposes of the  
17 acts;

18           (4) To act as the state water pollution, air pollution, and  
19 solid waste pollution control agency for all purposes of the Clean  
20 Water Act, as amended, 33 U.S.C. 1251 et seq., the Clean Air Act, as  
21 amended, 42 U.S.C. 7401 et seq., the Resource Conservation and  
22 Recovery Act, as amended, 42 U.S.C. 6901 et seq., and any other  
23 federal legislation pertaining to loans or grants for environmental  
24 protection and from other sources, public or private, for carrying out  
25 any of its functions, which loans and grants shall not be expended for  
26 other than the purposes for which provided;

27           (5) To encourage, participate in, or conduct studies,

1 investigations, research, and demonstrations relating to air, land,  
2 and water pollution and causes and effects, prevention, control, and  
3 abatement of such pollution as it may deem advisable and necessary for  
4 the discharge of its duties under the Environmental Protection Act,  
5 the Integrated Solid Waste Management Act, and the Livestock Waste  
6 Management Act, using its own staff or private research organizations  
7 under contract;

8 (6) To collect and disseminate information and conduct  
9 educational and training programs relating to air, water, and land  
10 pollution and the prevention, control, and abatement of such  
11 pollution;

12 (7) To issue, modify, or revoke orders (a) prohibiting or  
13 abating discharges of wastes into the air, waters, or land of the  
14 state and (b) requiring the construction of new disposal systems or  
15 any parts thereof or the modification, extension, or adoption of other  
16 remedial measures to prevent, control, or abate pollution;

17 (8) To administer state grants to political subdivisions for  
18 solid waste disposal facilities and for the construction of sewage  
19 treatment works and facilities to dispose of water treatment plant  
20 wastes;

21 (9) To (a) hold such hearings and give notice thereof, (b)  
22 issue such subpoenas requiring the attendance of such witnesses and  
23 the production of such evidence, (c) administer such oaths, and (d)  
24 take such testimony as the director deems necessary, and any of these  
25 powers may be exercised on behalf of the director by a hearing officer  
26 designated by the director;

27 (10) To require submission of plans, specifications, and

1 other data relative to, and to inspect construction of, disposal  
2 systems or any part thereof prior to issuance of such permits or  
3 approvals as are required by the Environmental Protection Act, the  
4 Integrated Solid Waste Management Act, and the Livestock Waste  
5 Management Act;

6 (11) To issue, continue in effect, revoke, modify, or deny  
7 permits, under such conditions as the director may prescribe and  
8 consistent with the standards, rules, and regulations adopted by the  
9 council, (a) to prevent, control, or abate pollution, (b) for the  
10 discharge of wastes into the air, land, or waters of the state, and  
11 (c) for the installation, modification, or operation of disposal  
12 systems or any parts thereof;

13 (12) To require proper maintenance and operation of disposal  
14 systems;

15 (13) To exercise all incidental powers necessary to carry  
16 out the purposes of the Environmental Protection Act, the Integrated  
17 Solid Waste Management Act, and the Livestock Waste Management Act;

18 (14) To establish bureaus, divisions, or sections for the  
19 control of air pollution, water pollution, mining and land quality,  
20 and solid wastes which shall be administered by full-time salaried  
21 bureau, division, or section chiefs and to delegate and assign to each  
22 such bureau, division, or section and its officers and employees the  
23 duties and powers granted to the department for the enforcement of  
24 Chapter 81, article 15, the Integrated Solid Waste Management Act, the  
25 Livestock Waste Management Act, and the standards, rules, and  
26 regulations adopted pursuant thereto;

27 (15)(a) To require access to existing and available records

1 relating to (i) emissions or discharges which cause or contribute to  
2 air, land, or water pollution or (ii) the monitoring of such emissions  
3 or discharges; and

4 (b) To require, for purposes of developing or assisting the  
5 development of any regulation or enforcing any of the provisions of  
6 the Environmental Protection Act which pertain to hazardous waste, any  
7 person who generates, stores, treats, transports, disposes of, or  
8 otherwise handles or has handled hazardous waste, upon request of any  
9 officer, employee, or representative of the department, to furnish  
10 information relating to such waste and any permit involved. Such  
11 person shall have access at all reasonable times to a copy of all  
12 results relating to such waste;

13 (16) To obtain such scientific, technical, administrative,  
14 and operational services including laboratory facilities, by contract  
15 or otherwise, as the director deems necessary;

16 (17) To encourage voluntary cooperation by persons and  
17 affected groups to achieve the purposes of the Environmental  
18 Protection Act, the Integrated Solid Waste Management Act, and the  
19 Livestock Waste Management Act;

20 (18) To encourage local units of government to handle air,  
21 land, and water pollution problems within their respective  
22 jurisdictions and on a cooperative basis and to provide technical and  
23 consultative assistance therefor;

24 (19) To consult with any person proposing to construct,  
25 install, or otherwise acquire an air, land, or water contaminant  
26 source or a device or system for control of such source, upon request  
27 of such person, concerning the efficacy of such device or system or

1 concerning the air, land, or water pollution problem which may be  
2 related to the source, device, or system. Nothing in any such  
3 consultation shall be construed to relieve any person from compliance  
4 with the Environmental Protection Act, the Integrated Solid Waste  
5 Management Act, the Livestock Waste Management Act, rules and  
6 regulations in force pursuant to the acts, or any other provision of  
7 law;

8 (20) To require all persons engaged or desiring to engage in  
9 operations which result or which may result in air, water, or land  
10 pollution to secure a permit prior to installation or operation or  
11 continued operation;

12 (21) To enter and inspect, during reasonable hours, any  
13 building or place, except a building designed for and used exclusively  
14 for a private residence;

15 (22) To receive or initiate complaints of air, water, or  
16 land pollution, hold hearings in connection with air, water, or land  
17 pollution, and institute legal proceedings in the name of the state  
18 for the control or prevention of air, water, or land pollution, and  
19 for the recovery of penalties, in accordance with the Environmental  
20 Protection Act, the Integrated Solid Waste Management Act, and the  
21 Livestock Waste Management Act. Upon request of the person against  
22 whom the complaint is lodged, the department shall provide such person  
23 a copy of such complaint received or initiated by the department

24 (23) To delegate, by contract with governmental subdivisions  
25 which have adopted local air, water, or land pollution control  
26 programs approved by the council, the enforcement of state-adopted  
27 air, water, or land pollution control regulations within a specified

1 region surrounding the jurisdictional area of the governmental  
2 subdivisions. Prosecutions commenced under such contracts shall be  
3 conducted by the Attorney General or county attorneys as provided in  
4 the Environmental Protection Act, the Integrated Solid Waste  
5 Management Act, and the Livestock Waste Management Act;

6 (24) To conduct tests and take samples of air, water, or  
7 land contaminants, fuel, process materials, or any other substance  
8 which affects or may affect discharges or emissions of air, water, or  
9 land contaminants from any source, giving the owner or operator a  
10 receipt for the sample obtained;

11 (25) To develop and enforce compliance schedules, under such  
12 conditions as the director may prescribe and consistent with the  
13 standards, rules, and regulations adopted by the council, to prevent,  
14 control, or abate pollution;

15 (26) To employ the Governor's Keep Nebraska Beautiful  
16 Committee for such special occasions and projects as the department  
17 may decide. Reimbursement of the committee shall be made from state  
18 and appropriate federal matching funds for each assignment of work by  
19 the department as provided in sections 81-1174 to 81-1177;

20 (27) To provide, to the extent determined by the council to  
21 be necessary and practicable, for areawide, selective, and periodic  
22 inspection and testing of motor vehicles to secure compliance with  
23 applicable exhaust emission standards for a fee not to exceed five  
24 dollars to offset the cost of inspection;

25 (28) To enforce, when it is not feasible to prescribe or  
26 enforce any emission standard for control of air pollutants, the use  
27 of a design, equipment, a work practice, an operational standard, or a

1 combination thereof, adequate to protect the public health from such  
2 pollutant or pollutants with an ample margin of safety;

3 (29) To establish the position of public advocate to be  
4 located within the department to assist and educate the public on  
5 departmental programs and to carry out all duties of the ombudsman as  
6 provided in the Clean Air Act, as amended, 42 U.S.C. 7661f;

7 (30) Under such conditions as it may prescribe for the  
8 review, recommendations, and written approval of the director, to  
9 require the submission of such plans, specifications, and other  
10 information as it deems necessary to carry out the Environmental  
11 Protection Act, the Integrated Solid Waste Management Act, and the  
12 Livestock Waste Management Act or to carry out the rules and  
13 regulations adopted pursuant to the acts. When deemed necessary by the  
14 director, the plans and specifications shall be prepared and submitted  
15 by a professional engineer licensed to practice in Nebraska;

16 (31) To carry out the provisions of the Petroleum Products  
17 and Hazardous Substances Storage and Handling Act; and

18 (32) To consider the risk to human health and safety and to  
19 the environment in evaluating and approving plans for remedial action.

20 Sec. 2. Original section 81-1504, Reissue Revised Statutes  
21 of Nebraska, is repealed.