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HOUSE BILL 387

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

DANICE PICRAUX

AN ACT

RELATING TO AIR QUALITY; AMENDING SECTION 74-2-4 NMSA 1978  
(BEING LAWS 1967, CHAPTER 277, SECTION 4, AS AMENDED) TO REQUIRE  
PERSONS WITH PARKING PERMITS ISSUED BY AN INSTITUTION OF HIGHER  
EDUCATION TO COMPLY WITH PROVISIONS OF A VEHICLE EMISSION  
INSPECTION AND MAINTENANCE PROGRAM IN THE JURISDICTION WHERE THE  
INSTITUTION OF HIGHER EDUCATION IS LOCATED.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 74-2-4 NMSA 1978 (being Laws 1967,  
Chapter 277, Section 4, as amended) is amended to read:

"74-2-4. LOCAL AUTHORITY. --

A. A county or municipality meeting the  
qualifications set forth in Paragraph (1) or (2) of Subsection J  
of Section 74-2-2 NMSA 1978 may assume jurisdiction as a local  
authority by adopting an ordinance providing for the local

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1 administration and enforcement of the Air Quality Control Act.

2 The ordinance shall:

3 (1) create a local board to perform, within the  
4 boundaries of the local authority, those functions delegated to  
5 the environmental improvement board under the Air Quality  
6 Control Act, except any functions reserved exclusively for the  
7 environmental improvement board;

8 (2) create a local agency to administer and  
9 enforce the provisions of the Air Quality Control Act within the  
10 boundaries of the local authority that shall, within the  
11 boundaries of the local authority, perform all of the duties  
12 required of the department and exert all of the powers granted  
13 to the department, except for those duties and powers reserved  
14 exclusively for the department; and

15 (3) provide for the appointment of a director  
16 who shall perform for the local authority the same duties as  
17 required of the secretary under the Air Quality Control Act,  
18 except the duties and powers reserved exclusively for the  
19 secretary.

20 B. At least a majority of the members of a local  
21 board shall be individuals who represent the public interest and  
22 do not derive any significant portion of their income from  
23 persons subject to or who appear before the local board on  
24 issues related to the federal act or the Air Quality Control  
25 Act.

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1 C. Prior to adopting any ordinance regulating air  
2 pollution, public hearings and consultations shall be held as  
3 directed by the local authority adopting the ordinance. The  
4 provisions of any ordinance shall be consistent with the  
5 substantive provisions of the Air Quality Control Act and shall  
6 provide for standards and regulations not lower than those  
7 required by regulations adopted by the environmental improvement  
8 board.

9 D. Notwithstanding the provisions of Subsection A of  
10 this section, the environmental improvement board and the  
11 secretary shall retain jurisdiction and control for the  
12 administration and enforcement of the Air Quality Control Act as  
13 determined in that act with respect to any act or failure to  
14 act, governmental or proprietary, of any local authority that  
15 causes or contributes to air pollution, including proceeding  
16 against a local authority as provided in Section 74-2-12 NMSA  
17 1978. "Failure to act", as used in this section, includes  
18 failure to act against any person violating the applicable  
19 ordinance or regulation adopted pursuant thereto.

20 E. Any local authority that is located within a  
21 transportation-related pollutant nonattainment area or  
22 maintenance area may provide for a vehicle emission inspection  
23 and maintenance program for vehicles under twenty-six thousand  
24 pounds gross vehicle weight powered by a spark-ignited internal  
25 combustion engine, which program shall be no more stringent than

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1 that required under the federal act or under federal air quality  
2 standards. Any two or more local authorities may adopt  
3 identical rules and regulations necessary to implement the  
4 vehicle emission inspection and maintenance program, including  
5 examining the alternatives of public or private operation of the  
6 program.

7 F. Any local authority that has implemented a  
8 vehicle emission inspection and maintenance program may extend  
9 the enforcement of that program by entering into joint powers  
10 agreements with any municipality or county within the designated  
11 airshed or with the department.

12 G. A person who has a parking permit, which is  
13 issued to him by an institution of higher education, shall  
14 comply with and be subject to the provisions of any vehicle  
15 emission inspection and maintenance program in the jurisdiction  
16 where the institution of higher education is located.

17 [~~G.-~~] H. No tax shall be imposed to fund any vehicle  
18 emission inspection and maintenance program until the local  
19 authority has submitted the question of imposition of a tax to  
20 the registered voters of the local authority and those  
21 registered voters have approved the imposition of the tax.

22 [~~H.-~~] I. A local authority having a vehicle emission  
23 inspection and maintenance program shall conduct the vehicle  
24 emission inspection and maintenance program through a  
25 decentralized privately owned and operated system unless air

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1 quality emissions result in automatic implementation of another  
2 type of program under the terms of a contingency plan required  
3 and approved by the United States environmental protection  
4 agency. The local authority shall set the emission inspection  
5 fee by ordinance.

6 [H.] J. A local authority having a vehicle emission  
7 inspection and maintenance program is authorized to adopt rules,  
8 regulations and guidelines governing the establishment of  
9 private vehicle emission inspection and maintenance stations.  
10 No private vehicle emission inspection and maintenance station  
11 shall test vehicles unless the station possesses a valid permit  
12 issued by the local agency. Permit fees shall be determined by  
13 ordinance of the local authority and shall not exceed two  
14 hundred dollars (\$200) per year per station. Additionally, a  
15 local authority may charge a permit fee of up to thirty-five  
16 dollars (\$35.00) per year for each vehicle emissions mechanic  
17 and for each vehicle emissions inspector. The imposition of  
18 permit fees does not require a vote of the registered voters of  
19 the local authority. "

**State of New Mexico**  
**House of Representatives**

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**FORTY-THIRD LEGISLATURE**  
**FIRST SESSION, 1997**

February 5, 1997

Mr. Speaker:

Your ENERGY AND NATURAL RESOURCES COMMITTEE, to  
whom has been referred

HOUSE BILL 387

has had it under consideration and reports same with  
recommendation that it DO PASS, and thence referred to the  
CONSUMER AND PUBLIC AFFAIRS COMMITTEE.

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

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Respectfully submitted,

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James Roger Madalena, Chairman

Adopted \_\_\_\_\_

Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 10 For 0 Against

Yes: 10

Excused: Macko, Stewart

Absent: None

M \ H0387

# **State of New Mexico House of Representatives**

**FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997**

**February 18, 1997**

**Mr. Speaker:**

**Your CONSUMER AND PUBLIC AFFAIRS COMMITTEE, to  
whom has been referred**

**HOUSE BILL 387**

**has had it under consideration and reports same with  
recommendation that it DO PASS, and thence referred to the  
JUDICIARY COMMITTEE.**

**Respectfully submitted,**

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**Gary King, Chairman**

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FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 6 For 1 Against

Yes: 6

No: Johnson

Excused: Rios, Sandel, Vaughn

Absent: None

M \H0387

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