

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 1092**

Introduced by Fulton, 29.

Read first time January 18, 2012

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to environmental protection; to amend section  
2 81-1504, Reissue Revised Statutes of Nebraska; to provide  
3 duties for the Department of Environmental Quality  
4 regarding disposal of mercury-containing light bulbs; and  
5 to repeal the original section.  
6 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  
15 states, 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,  
19 and solid waste pollution control agency for all purposes of the  
20 Clean Water Act, as amended, 33 U.S.C. 1251 et seq., the Clean Air  
21 Act, as amended, 42 U.S.C. 7401 et seq., the Resource Conservation  
22 and 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  
25 out any of its functions, which loans and grants shall not be

1 expended for other than the purposes for which provided;

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

10 (6) To collect and disseminate information and conduct  
11 educational and training programs relating to air, water, and land  
12 pollution and the prevention, control, and abatement of such  
13 pollution, including the proper disposal of mercury-containing light  
14 bulbs;

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

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

24 (9) To (a) hold such hearings and give notice thereof,  
25 (b) issue such subpoenas requiring the attendance of such witnesses

1 and the production of such evidence, (c) administer such oaths, and  
2 (d) take such testimony as the director deems necessary, and any of  
3 these powers may be exercised on behalf of the director by a hearing  
4 officer designated by the director;

5 (10) To require submission of plans, specifications, and  
6 other data relative to, and to inspect construction of, disposal  
7 systems or any part thereof prior to issuance of such permits or  
8 approvals as are required by the Environmental Protection Act, the  
9 Integrated Solid Waste Management Act, and the Livestock Waste  
10 Management Act;

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

18 (12) To require proper maintenance and operation of  
19 disposal systems;

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

23 (14) To establish bureaus, divisions, or sections for the  
24 control of air pollution, water pollution, mining and land quality,  
25 and solid wastes which shall be administered by full-time salaried

1 bureau, division, or section chiefs and to delegate and assign to  
2 each such bureau, division, or section and its officers and employees  
3 the duties and powers granted to the department for the enforcement  
4 of Chapter 81, article 15, the Integrated Solid Waste Management Act,  
5 the Livestock Waste Management Act, and the standards, rules, and  
6 regulations adopted pursuant thereto;

7 (15)(a) To require access to existing and available  
8 records relating to (i) emissions or discharges which cause or  
9 contribute to air, land, or water pollution or (ii) the monitoring of  
10 such emissions or discharges; and

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

20 (16) To obtain such scientific, technical,  
21 administrative, and operational services including laboratory  
22 facilities, by contract or otherwise, as the director deems  
23 necessary;

24 (17) To encourage voluntary cooperation by persons and  
25 affected groups to achieve the purposes of the Environmental

1 Protection Act, the Integrated Solid Waste Management Act, and the  
2 Livestock Waste Management Act;

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

7 (19) To consult with any person proposing to construct,  
8 install, or otherwise acquire an air, land, or water contaminant  
9 source or a device or system for control of such source, upon request  
10 of such person, concerning the efficacy of such device or system or  
11 concerning the air, land, or water pollution problem which may be  
12 related to the source, device, or system. Nothing in any such  
13 consultation shall be construed to relieve any person from compliance  
14 with the Environmental Protection Act, the Integrated Solid Waste  
15 Management Act, the Livestock Waste Management Act, rules and  
16 regulations in force pursuant to the acts, or any other provision of  
17 law;

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

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

25 (22) To receive or initiate complaints of air, water, or

1 land pollution, hold hearings in connection with air, water, or land  
2 pollution, and institute legal proceedings in the name of the state  
3 for the control or prevention of air, water, or land pollution, and  
4 for the recovery of penalties, in accordance with the Environmental  
5 Protection Act, the Integrated Solid Waste Management Act, and the  
6 Livestock Waste Management Act;

7 (23) To delegate, by contract with governmental  
8 subdivisions which have adopted local air, water, or land pollution  
9 control programs approved by the council, the enforcement of state-  
10 adopted air, water, or land pollution control regulations within a  
11 specified region surrounding the jurisdictional area of the  
12 governmental subdivisions. Prosecutions commenced under such  
13 contracts shall be conducted by the Attorney General or county  
14 attorneys as provided in the Environmental Protection Act, the  
15 Integrated Solid Waste Management Act, and the Livestock Waste  
16 Management Act;

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

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

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

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

11           (28) To enforce, when it is not feasible to prescribe or  
12 enforce any emission standard for control of air pollutants, the use  
13 of a design, equipment, a work practice, an operational standard, or  
14 a combination thereof, adequate to protect the public health from  
15 such pollutant or pollutants with an ample margin of safety;

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

20           (30) Under such conditions as it may prescribe for the  
21 review, recommendations, and written approval of the director, to  
22 require the submission of such plans, specifications, and other  
23 information as it deems necessary to carry out the Environmental  
24 Protection Act, the Integrated Solid Waste Management Act, and the  
25 Livestock Waste Management Act or to carry out the rules and

1 regulations adopted pursuant to the acts. When deemed necessary by  
2 the director, the plans and specifications shall be prepared and  
3 submitted by a professional engineer licensed to practice in  
4 Nebraska;

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

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

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