

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Appropriations.

HB20-1143 be amended as follows:

1 Strike the Finance Committee Report, dated February 27, 2020.

2 Strike the Energy and Environment Committee Report, dated February  
3 10, 2020, and substitute:

4 "Amend printed bill, strike everything below the enacting clause and  
5 substitute:

6 **"SECTION 1.** In Colorado Revised Statutes, 25-7-122, **amend**  
7 (1) introductory portion, (1)(b), and (1)(d) as follows:

8 **25-7-122. Civil penalties - rules.** (1) Upon application of the  
9 division, penalties as determined under this ~~article~~ ARTICLE 7 may be  
10 collected by the division by action instituted in the district court for the  
11 district in which is located the air pollution source affected in accordance  
12 with the following provisions:

13 (b) Any person who violates any requirement or prohibition of an  
14 applicable emission control regulation of the commission, the state  
15 implementation plan, a construction permit, any provision for the  
16 prevention of significant deterioration under part 2 of this ~~article~~ ARTICLE  
17 7, any provision related to attainment under part 3 of this ~~article~~ ARTICLE  
18 7, or any provision of section 25-7-105, 25-7-106, 25-7-106.3,  
19 25-7-106.8, ~~25-7-106.9~~, 25-7-108, 25-7-109, 25-7-111, 25-7-112,  
20 25-7-113, 25-7-114.2, 25-7-114.5, 25-7-118, 25-7-206, 25-7-403,  
21 25-7-404, 25-7-405, 25-7-407, 42-4-403, 42-4-404, 42-4-405, 42-4-406,  
22 42-4-407, 42-4-409, 42-4-410, or 42-4-414 ~~C.R.S.~~, shall be IS subject to  
23 a civil penalty of not more than ~~fifteen~~ FORTY-SEVEN thousand THREE  
24 HUNDRED FIFTY-SEVEN dollars per day for each day of ~~such~~ THE violation;  
25 except that:

26 (I) ON OR BEFORE DECEMBER 31, 2021, THE COMMISSION SHALL,  
27 BY RULE, ANNUALLY ADJUST THE AMOUNT OF THE MAXIMUM CIVIL  
28 PENALTY BASED ON THE PERCENTAGE CHANGE IN THE UNITED STATES  
29 DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS CONSUMER PRICE  
30 INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN  
31 CONSUMERS, OR ITS SUCCESSOR INDEX; AND

32 (II) ~~There shall be no~~ Civil penalties SHALL NOT BE assessed or  
33 collected against persons who violate emission regulations promulgated  
34 by the commission for the control of odor until a compliance order issued  
35 pursuant to section 25-7-115 and ordering compliance with the odor  
36 regulation has been violated.

37 (d) Any person who violates any requirement, prohibition, or  
38 order respecting an operating permit issued pursuant to section

1 25-7-114.3, including ~~but not limited to~~ failure to obtain such a permit,  
2 ~~or~~ to operate in compliance with any term or condition ~~thereof~~ OF THE  
3 PERMIT, or to pay the permit fee required under section 25-7-114.7 (2), or  
4 WHO commits a violation of section 25-7-109.6 ~~shall be~~ IS subject to a  
5 civil penalty of not more than ~~fifteen~~ FORTY-SEVEN thousand THREE  
6 HUNDRED FIFTY-SEVEN dollars per day for each violation; EXCEPT THAT,  
7 ON OR BEFORE DECEMBER 31, 2021, THE COMMISSION SHALL, BY RULE,  
8 ANNUALLY ADJUST THE AMOUNT OF THE MAXIMUM CIVIL PENALTY BASED  
9 ON THE PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF  
10 LABOR'S BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX FOR  
11 DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN  
12 CONSUMERS, OR ITS SUCCESSOR INDEX.

13 **SECTION 2.** In Colorado Revised Statutes, 25-8-608, **amend** (1)  
14 introductory portion and (1.7)(d)(II) as follows:

15 **25-8-608. Civil penalties - rules - fund created - temporary**  
16 **moratorium on penalties for minor violations - definitions - repeal.**  
17 (1) ~~Except as otherwise provided in subsection (3) of this section, any~~ A  
18 person who violates ~~any provision of this article or of any~~ THIS ARTICLE  
19 8, A permit issued under this ~~article, or any~~ ARTICLE 8, A control  
20 regulation promulgated pursuant to this ~~article~~ ARTICLE 8, or ~~any~~ A final  
21 cease-and-desist order or clean-up order ~~shall be~~ IS subject to a civil  
22 penalty of not more than ~~ten~~ FIFTY-FOUR thousand EIGHT HUNDRED  
23 THIRTY-THREE dollars per day ~~for each day during which such~~ PER  
24 violation; ~~occurs~~ EXCEPT THAT, ON OR BEFORE DECEMBER 31, 2021, THE  
25 COMMISSION SHALL, BY RULE, ANNUALLY ADJUST THE AMOUNT OF THE  
26 MAXIMUM CIVIL PENALTY BASED ON THE PERCENTAGE CHANGE IN THE  
27 UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS  
28 CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL  
29 ITEMS AND ALL URBAN CONSUMERS, OR ITS SUCCESSOR INDEX. In  
30 determining the amount of a penalty under this part 6, the following  
31 factors shall be considered:

32 (1.7) (d) (II) This subsection (1.7)(d) is repealed, effective  
33 September 1, ~~2021~~ 2025.

34 **SECTION 3.** In Colorado Revised Statutes, 25-8-609, **amend** (2),  
35 (3) introductory portion, (3)(a), and (3)(b) as follows:

36 **25-8-609. Criminal pollution - penalties.** (2) Prosecution under  
37 ~~paragraph (a) of subsection (1) of this section shall be commenced only~~  
38 upon ~~complaint filed~~ REQUEST by the division or a peace officer, WHO  
39 MUST PRESENT EVIDENCE BASED ON REASONABLE SUSPICION TO EITHER  
40 THE ATTORNEY GENERAL OR A DISTRICT ATTORNEY FOR THE DISTRICT IN  
41 WHICH AN ALLEGED VIOLATION OCCURS. NO CRIMINAL VIOLATION WILL BE  
42 CHARGED WITHOUT PROBABLE CAUSE.

43 (3) Any person who commits criminal pollution of state waters  
44 shall be ~~fined, for each day the violation occurs,~~ PENALIZED as follows:

45 (a) ~~If the~~ FOR A violation is committed with criminal negligence

1 or recklessly, as BOTH TERMS ARE defined in section 18-1-501, ~~C.R.S.~~, the  
2 VIOLATOR IS GUILTY OF A MISDEMEANOR, PUNISHABLE BY A maximum  
3 fine ~~shall be twelve~~ OF TWENTY-FIVE thousand ~~five hundred~~ dollars PER  
4 DAY FOR EACH DAY THE VIOLATION OCCURS, IMPRISONMENT OF UP TO ONE  
5 YEAR, OR BOTH.

6 (b) ~~If the~~ FOR A violation is committed knowingly or intentionally,  
7 as BOTH TERMS ARE defined in section 18-1-501, ~~C.R.S.~~, the VIOLATOR IS  
8 GUILTY OF A CLASS 5 FELONY AND, NOTWITHSTANDING SECTION  
9 18-1.3-401, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A  
10 maximum fine ~~shall be twenty-five~~ OF FIFTY thousand dollars PER DAY  
11 FOR EACH DAY THE VIOLATION OCCURS, IMPRISONMENT OF UP TO THREE  
12 YEARS, OR BOTH.

13 **SECTION 4.** In Colorado Revised Statutes, **amend** 25-8-610 as  
14 follows:

15 **25-8-610. Falsification and tampering - penalties.** (1) Any  
16 person who knowingly makes any MATERIAL false statement,  
17 representation, or certification in any application, record, report, plan, or  
18 other document filed or required to be maintained under this ~~article~~  
19 ARTICLE 8 or who falsifies, tampers with, or knowingly renders inaccurate  
20 any monitoring device or method required to be maintained under this  
21 ~~article~~ ARTICLE 8 is guilty of a ~~misdemeanor~~ CLASS 5 FELONY and, upon  
22 conviction thereof, shall be punished by ~~a fine of not more than ten~~  
23 ~~thousand dollars, or by imprisonment in the county jail for not more than~~  
24 ~~six months, or by both such fine and imprisonment~~ AS SPECIFIED IN  
25 SECTION 18-1.3-401.

26 (2) PROSECUTION UNDER THIS SECTION SHALL BE COMMENCED  
27 UPON REQUEST BY THE DIVISION OR A PEACE OFFICER, WHO MUST PRESENT  
28 EVIDENCE BASED ON REASONABLE SUSPICION TO EITHER THE ATTORNEY  
29 GENERAL OR A DISTRICT ATTORNEY FOR THE DISTRICT IN WHICH AN  
30 ALLEGED VIOLATION OCCURS. NO CRIMINAL VIOLATION WILL BE CHARGED  
31 WITHOUT PROBABLE CAUSE.

32 (3) IF TWO SEPARATE OFFENSES UNDER THIS SECTION OCCUR IN  
33 TWO SEPARATE OCCURRENCES DURING A PERIOD OF TWO YEARS,  
34 NOTWITHSTANDING SECTION 18-1.3-401, THE MAXIMUM FINE AND PERIOD  
35 OF IMPRISONMENT FOR THE SECOND OFFENSE ARE DOUBLE THE AMOUNTS  
36 SPECIFIED IN SECTION 18-1.3-401.

37 ~~(2)~~ (4) Any penalty collected under this section shall be credited  
38 to the general fund.

39 **SECTION 5. Potential appropriation.** Pursuant to section  
40 2-2-703, C.R.S., any bill that results in a net increase in periods of  
41 imprisonment in state correctional facilities must include an appropriation  
42 of money that is sufficient to cover any increased capital construction, any  
43 operational costs, and increased parole costs that are the result of the bill  
44 for the department of corrections in each of the first five years following  
45 the effective date of the bill. Because this act may increase periods of

1 imprisonment, this act may require a five-year appropriation.

2           **SECTION 6. Applicability.** This act applies to conduct  
3 occurring, including fines assessed, on or after the effective date of this  
4 act.

5           **SECTION 7. Safety clause.** The general assembly hereby finds,  
6 determines, and declares that this act is necessary for the immediate  
7 preservation of the public peace, health, or safety."

8 Page 1, strike lines 104 and 105 and substitute "**AND WATER QUALITY**  
9 **VIOLATIONS.**".

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