

**Second Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 24-0833.01 Sarah Lozano x3858

**SENATE BILL 24-166**

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**SENATE SPONSORSHIP**

**Winter F., Priola**

**HOUSE SPONSORSHIP**

**Froelich and Velasco,**

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**Senate Committees**

Transportation & Energy  
Finance

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING MEASURES TO INCREASE THE ENFORCEMENT OF**  
102 **VIOLATIONS THAT IMPACT THE ENVIRONMENT.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

**Section 1** of the bill defines a "repeat violator" as a person that, in a 3-year period, has committed 5 or more violations of certain air quality laws (repeat violator).

**Section 1** also defines a "high-priority repeat violator" as a repeat violator that, in a 3-year period, has committed 5 or more exceedances (emission exceedance) of the allowable emissions of an air pollutant in

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing law.  
Dashes through the words or numbers indicate deletions from existing law.

a permit (high-priority repeat violator).

**Section 2** requires the division of administration in the department of public health and environment (division), in the case of a violation by a repeat violator, to issue an order of compliance (order) for the violation instead of issuing a warning letter or compliance advisory or taking another informal action. The order must assess civil penalties and, in the case of a high-priority repeat violator, must require the high-priority repeat violator to conduct and submit to the division a root cause analysis for the violation, which must be submitted to the division within 90 days after the order. In connection with an order and in the case of a high-priority repeat violator, the division must require a reduction in emissions of any air pollutant applicable to an emission exceedance from any emission unit where a violation occurred in accordance with certain standards.

**Section 2** also clarifies that the division may assess civil penalties for air quality violations without instituting an action in district court.

**Section 2** also allows a person, with respect to air quality laws, to commence a civil action (action) against an alleged violator. A person shall not commence an action until at least 60 days after a notice has been provided to the executive director of the department of public health and environment, the director of the division, and the alleged violator. Except for violations of an ongoing or recurring nature, any action that is not commenced within 5 years after the discovery of the alleged violation is time barred.

**Section 2** also requires the division, on or before February 1, 2025, and on or before each February 1 thereafter, to prepare and post on the division's website an air quality enforcement report, which must contain certain air quality enforcement information from the previous calendar year.

**Section 3** requires that:

- In the case of a repeat violator, the division or a district court assess a civil penalty that is at least 50% of the maximum civil penalty applicable to the violation under applicable state air quality laws; and
- In the case of a violation by a repeat violator in a disproportionately impacted community, the division or a district court assess a civil penalty that is at least 75% of the maximum civil penalty applicable to the violation under applicable state air quality laws.

On or before December 31, 2024, **section 4** requires owners and operators of stationary sources to submit any reports or records that the owner or operator is required to create, maintain, or submit pursuant to federal or state law. The division must make any reports or records received available on the division's website within 30 days after receipt.

Current law provides that a person that violates a local

government's air quality regulations is subject to a maximum civil penalty of \$300. **Section 5** raises the maximum civil penalty to the amount provided by state air quality laws.

**Section 6** requires a district court, in a suit against a person that has violated a state law related to energy and carbon management, to award the initial complaining party any costs of litigation incurred by the initial complaining party if the court determines that the award is appropriate.

Current law exempts damage awards from the state constitutional definition of "fiscal year spending", which counts toward the state's annual spending limit pursuant to state constitutional law. **Section 7** adds civil penalties assessed by a state agency to the statutory definition of "damage awards".

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 25-7-103, **add** (13.5)  
3 and (19.7) as follows:

4 **25-7-103. Definitions.** As used in this article 7, unless the context  
5 otherwise requires:

6 (13.5) == "HIGH-PRIORITY REPEAT VIOLATOR" MEANS A REPEAT  
7 VIOLATOR IN THE INDUSTRIAL AND MANUFACTURING SECTOR, AS DEFINED  
8 IN SECTION 25-7-105 (1)(e)(XI)(B.5).

9 (19.7) (a) "REPEAT VIOLATOR" MEANS A PERSON THAT, IN A  
10 THREE-YEAR PERIOD, HAS COMMITTED FIVE OR MORE VIOLATIONS FROM  
11 SEPARATE EVENTS AT THE SAME STATIONARY SOURCE.

12 ==  
13 (b) AS USED IN THIS SUBSECTION (19.7), "VIOLATION" == MEANS  
14 ANY EXCEEDANCE OF THE ALLOWABLE EMISSIONS OF AN AIR POLLUTANT.

15 (c) AS USED IN THIS SUBSECTION (19.7), "VIOLATION" DOES NOT  
16 INCLUDE A VIOLATION THAT:

17 (I) RESULTS FROM A MALFUNCTION THAT HAS BEEN PROVEN AS AN  
18 AFFIRMATIVE DEFENSE PURSUANT TO APPLICABLE COMMISSION RULES;

1           (II) HAS BEEN VOLUNTARILY DISCLOSED IN ACCORDANCE WITH  
2           SECTION 25-1-114.5; OR

3           (III) IS DISCLOSED IN AN ENVIRONMENTAL SELF-AUDIT CONDUCTED  
4           PURSUANT TO SECTION 25-1-114.6.

5           **SECTION 2.** In Colorado Revised Statutes, 25-7-115, **amend**  
6           (3)(b)(IV) introductory portion; and **add** (3)(b)(III.3), (3)(b)(III.5), (3)(d),  
7           (12), and (13) as follows:

8           **25-7-115. Enforcement - civil actions - reports - definitions.**

9           (3) (b) (III.3) IF THE OWNER OR OPERATOR OR ANY OTHER RESPONSIBLE  
10          PARTY IS A REPEAT VIOLATOR, WITHIN SIX MONTHS AFTER ANY VIOLATION,  
11          AS DEFINED IN SECTION 25-7-103 (19.7)(b), OCCURS, THE DIVISION SHALL  
12          ISSUE AN ORDER FOR THE VIOLATION     AND SHALL NOT ISSUE A WARNING  
13          LETTER OR COMPLIANCE ADVISORY FOR, OR TAKE OTHER INFORMAL  
14          ACTION IN REGARD TO, THE VIOLATION    . THE ORDER, AT A MINIMUM,  
15          MUST:

16          (A) IF THE OWNER OR OPERATOR OR ANY OTHER RESPONSIBLE  
17          PARTY IS A HIGH-PRIORITY REPEAT VIOLATOR, REQUIRE THE  
18          HIGH-PRIORITY REPEAT VIOLATOR TO CONDUCT AND SUBMIT TO THE  
19          DIVISION A ROOT CAUSE ANALYSIS THAT DOCUMENTS THE REASONS FOR  
20          THE VIOLATION AND IDENTIFIES TECHNOLOGICAL AND OPERATIONAL  
21          METHODS TO ELIMINATE FUTURE EMISSIONS IN EXCESS OF ALLOWABLE  
22          EMISSIONS, WHICH ROOT CAUSE ANALYSIS SHALL BE SUBMITTED TO THE  
23          DIVISION NO LATER THAN NINETY DAYS AFTER THE DIVISION'S ORDER; AND

24          (B) INCLUDE THE ASSESSMENT OF CIVIL PENALTIES IN  
25          ACCORDANCE WITH SECTION 25-7-122 (1) AND (1.5).

26          (III.5) IF AN OWNER OR OPERATOR OR OTHER RESPONSIBLE PARTY  
27          IS A HIGH-PRIORITY REPEAT VIOLATOR, AS PART OF ANY ORDER DESCRIBED

1 IN SUBSECTION (3)(b)(III.3) OF THIS SECTION, THE DIVISION SHALL ALSO  
2 REQUIRE A REDUCTION IN EMISSIONS OF ANY AIR POLLUTANT APPLICABLE  
3 TO THE EMISSION EXCEEDANCE FROM ANY EMISSION UNIT WHERE THE  
4 EMISSION EXCEEDANCE OCCURRED IN ACCORDANCE WITH ONE OF THE  
5 FOLLOWING STANDARDS:

6 (A) A REQUIREMENT FOR A MASS-BASED REDUCTION IN TOTAL  
7 EMISSIONS OF THE AIR POLLUTANT APPLICABLE TO THE EMISSION  
8 EXCEEDANCE FROM THE APPLICABLE EMISSION UNIT OVER THE  
9 SUBSEQUENT CALENDAR-YEAR PERIOD;

10 (B) IF THE SAME EMISSION EXCEEDANCE FROM THE SAME EMISSION  
11 UNIT OCCURS IN MULTIPLE CALENDAR YEARS, A REQUIREMENT FOR ONE  
12 CALENDAR YEAR OF REDUCTION IN EMISSIONS OF THE AIR POLLUTANT  
13 APPLICABLE TO THE EMISSION EXCEEDANCE FOR EACH YEAR OF  
14 VIOLATION;

15 (C) A REQUIREMENT FOR MASS-BASED REDUCTION OF FIVE  
16 PERCENT OF THE LESSER OF EITHER THE EMISSION UNIT'S EMISSIONS OF THE  
17 AIR POLLUTANT APPLICABLE TO THE EMISSION EXCEEDANCE OR THE  
18 ANNUAL LIMIT OF THE AIR POLLUTANT APPLICABLE TO THE EMISSION  
19 EXCEEDANCE AT THE EMISSION UNIT FOR THE APPLICABLE YEAR;

20 (D) IF THE EMISSION UNIT IS NOT SUBJECT TO AN ANNUAL LIMIT  
21 FOR THE AIR POLLUTANT APPLICABLE TO THE EMISSION EXCEEDANCE, THE  
22 DIVISION MUST CALCULATE AN ANNUAL LIMIT FOR THE AIR POLLUTANT BY  
23 AGGREGATING ANY OTHER RELEVANT LIMITS OVER A CALENDAR-YEAR  
24 PERIOD; OR

25 (E) IF A VIOLATION CONCERNS AN AIR POLLUTANT PROXY, THE  
26 DIVISION MUST USE ITS BEST PROFESSIONAL JUDGMENT TO CALCULATE  
27 EMISSION REDUCTIONS FOR THE AIR POLLUTANT APPLICABLE TO THE

1 EMISSION EXCEEDANCE.

2 (IV) EXCEPT IN ASSESSING A CIVIL PENALTY AGAINST A REPEAT  
3 VIOLATOR, in determining the amount to assess for a civil penalty for a  
4 violation or noncompliance, the division shall:

5 (d) NOTWITHSTANDING ANY PROVISION OF LAW TO THE  
6 CONTRARY, THE DIVISION MAY ASSESS CIVIL PENALTIES PURSUANT TO THIS  
7 SUBSECTION (3) WITHOUT INSTITUTING AN ACTION IN A DISTRICT COURT  
8 PURSUANT TO SECTION 25-7-122 (1).

9 (12) (a) NOTWITHSTANDING THE DIVISION'S ENFORCEMENT DUTY  
10 PURSUANT TO THIS ARTICLE 7, A PERSON MAY COMMENCE A CIVIL ACTION  
11 AGAINST AN ALLEGED VIOLATOR FOR A CURRENT OR PAST ALLEGED  
12 VIOLATION OF OR NONCOMPLIANCE WITH:

13 (I) AN EMISSION CONTROL REGULATION;

14 (II) THE REQUIREMENTS OF THE STATE IMPLEMENTATION PLAN;

15 (III) THIS PART 1 OR PART 2, 3, 4, OR 11 OF THIS ARTICLE 7;

16 (IV) THE TERMS OR CONDITIONS OF A PERMIT REQUIRED PURSUANT  
17 TO THIS ARTICLE 7; OR

18 (V) ANY ORDER ISSUED BY THE DIVISION, INCLUDING A  
19 COMPLIANCE ORDER ON CONSENT OR A SETTLEMENT AGREEMENT WITH  
20 THE ALLEGED VIOLATOR.

21 (b) A PERSON SHALL NOT COMMENCE AN ACTION UNTIL AT LEAST  
22 SIXTY DAYS AFTER NOTICE OF THE ALLEGED VIOLATION OR  
23 NONCOMPLIANCE HAS BEEN PROVIDED TO:

24 (I) THE EXECUTIVE DIRECTOR;

25 (II) THE DIRECTOR OF THE DIVISION; AND

26 (III) EACH PERSON ALLEGED TO HAVE COMMITTED ONE OR MORE  
27 VIOLATIONS OR INSTANCES OF NONCOMPLIANCE.

1 (c) (I) A PERSON MAY COMMENCE AN ACTION PURSUANT TO THIS  
2 SUBSECTION (12) IN A DISTRICT COURT WHERE:

3 (A) THE ALLEGED VIOLATION OR NONCOMPLIANCE OCCURRED;

4 (B) THE ALLEGED VIOLATOR RESIDES OR IS LOCATED;

5 (C) THE PERSON RESIDES; OR

6 (D) THE DIVISION IS HEADQUARTERED.

7 (II) ONCE AN ACTION IS COMMENCED, THE PLAINTIFF SHALL  
8 PROMPTLY SERVE A COPY OF THE COMPLAINT TO THE ATTORNEY GENERAL  
9 AND THE EXECUTIVE DIRECTOR.

10 (III) A DISTRICT COURT HEARING AN ACTION MAY:

11 (A) ENJOIN THE ALLEGED VIOLATION OR NONCOMPLIANCE AND  
12 COMPEL COMPLIANCE;

13 (B) IMPOSE CIVIL PENALTIES IN ACCORDANCE WITH SECTION  
14 25-7-122;

15 (C) COMPEL THE DIVISION TO ORDER THE REDUCTION OF  
16 EMISSIONS IN ACCORDANCE WITH SUBSECTION (3)(b)(III.5) OF THIS  
17 SECTION; AND

18 (D) GRANT ANY OTHER MONETARY OR INJUNCTIVE RELIEF THAT  
19 IT FINDS JUST, EQUITABLE, AND IN THE PUBLIC INTEREST.

20 (IV) A PERSON SHALL NOT COMMENCE AN ACTION IF, AT THE TIME  
21 OF THE FILING OF THE ACTION:

22 (A) THE DIVISION IS ACTIVELY SEEKING ENFORCEMENT OF AN  
23 ISSUED COMPLIANCE ORDER RELATED TO THE ALLEGED VIOLATION OR  
24 NONCOMPLIANCE THROUGH A HEARING PURSUANT TO SECTION 25-7-119;  
25 OR

26 (B) THE DIVISION IS DILIGENTLY PROSECUTING A CIVIL ACTION  
27 RELATED TO THE ALLEGED VIOLATION OR NONCOMPLIANCE IN DISTRICT

1 COURT OR AN APPELLATE COURT.

2 (V) NOTWITHSTANDING SECTION 25-7-123.1 (1), ANY ACTION  
3 THAT IS NOT COMMENCED WITHIN FIVE YEARS AFTER THE EXISTENCE OF  
4 THE ALLEGED VIOLATION IS PUBLICLY AVAILABLE IS TIME BARRED, EXCEPT  
5 FOR VIOLATIONS OR NONCOMPLIANCE OF AN ONGOING OR RECURRING  
6 NATURE.

7 (VI) THE DIVISION MAY INTERVENE AS A MATTER OF RIGHT IN ANY  
8 ACTION.

9 (VII) (A) IN AN ACTION THAT THE STATE IS NOT A PARTY TO, A  
10 PLAINTIFF SHALL PROVIDE A COPY OF ANY PROPOSED CONSENT JUDGMENT  
11 TO THE ATTORNEY GENERAL AND THE EXECUTIVE DIRECTOR. THE  
12 ATTORNEY GENERAL AND THE EXECUTIVE DIRECTOR MAY SUBMIT  
13 COMMENTS TO THE PROPOSED CONSENT JUDGMENT TO THE DISTRICT  
14 COURT OR INTERVENE IN THE ACTION AS A MATTER OF RIGHT.

15 (B) A DISTRICT COURT SHALL NOT ENTER A CONSENT JUDGMENT  
16 UNTIL AT LEAST FORTY-FIVE DAYS AFTER THE ATTORNEY GENERAL AND  
17 THE EXECUTIVE DIRECTOR RECEIVE A COPY OF THE PROPOSED CONSENT  
18 JUDGMENT PURSUANT TO SUBSECTION (12)(c)(VII)(A) OF THIS SECTION.

19 (VIII) IN ISSUING A FINAL JUDGMENT, RULING, OR ORDER IN AN  
20 ACTION, THE DISTRICT COURT SHALL AWARD THE PLAINTIFF ANY COSTS  
21 THAT THE PLAINTIFF INCURS IN LITIGATING THE ACTION, INCLUDING  
22 REASONABLE ATTORNEY FEES, EXPERT WITNESS FEES, AND OTHER  
23 RELATED COSTS, IF THE DISTRICT COURT DETERMINES THAT THE AWARD  
24 IS APPROPRIATE. AN AWARD IS APPROPRIATE IF, AS DETERMINED BY THE  
25 DISTRICT COURT:

26 (A) THE PLAINTIFF PREVAILS ON ONE OR MORE CLAIMS; OR

27 (B) THE ACTION IS SUBSTANTIALLY RESPONSIBLE FOR STOPPING A



1 VIOLATION OR BRINGING AN ALLEGED VIOLATOR INTO COMPLIANCE.

2 ==

3 (d) AS USED IN THIS SUBSECTION (12), UNLESS THE CONTEXT  
4 OTHERWISE REQUIRES:

5 (I) "ACTION" MEANS A CIVIL ACTION COMMENCED BY A PERSON  
6 AGAINST AN ALLEGED VIOLATOR PURSUANT TO SUBSECTION (12)(a) OF  
7 THIS SECTION.

8 (II) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF  
9 THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

10 (13) (a) ON OR BEFORE FEBRUARY 1, 2025, AND ON OR BEFORE  
11 EACH FEBRUARY 1 THEREAFTER, THE DIVISION SHALL PREPARE AND POST  
12 ON THE DIVISION'S WEBSITE AN AIR QUALITY ENFORCEMENT REPORT,  
13 WHICH REPORT MUST INCLUDE THE FOLLOWING STATEWIDE INFORMATION  
14 FOR THE PREVIOUS CALENDAR YEAR:

15 (I) THE TOTAL NUMBER OF INFORMAL ACTIONS COMMENCED BY  
16 THE DIVISION AND THE STATUS OF THOSE ACTIONS, INCLUDING THE TOTAL  
17 NUMBER OF INFORMAL ACTIONS THAT ARE STILL ONGOING;

18 (II) THE TOTAL NUMBER OF FORMAL ACTIONS COMMENCED BY THE  
19 DIVISION AND THE STATUS OF THOSE ACTIONS, INCLUDING THE TOTAL  
20 NUMBER OF FORMAL ACTIONS THAT ARE STILL ONGOING;

21 (III) THE TOTAL AGGREGATE NUMBER OF DAYS OF VIOLATIONS OR  
22 NONCOMPLIANCES FOR ALL FACILITIES;

23 (IV) THE TOTAL NUMBER OF VIOLATORS THAT WERE ASSESSED A  
24 CIVIL PENALTY;

25 (V) THE TOTAL NUMBER OF REPEAT VIOLATORS THAT WERE  
26 ASSESSED A CIVIL PENALTY;

27 (VI) THE TOTAL NUMBER OF HIGH-PRIORITY REPEAT VIOLATORS

1 THAT WERE ASSESSED A CIVIL PENALTY;

2 (VII) THE TOTAL NUMBER OF PERMITS THAT WERE ALTERED BY

3 THE DIVISION PURSUANT TO SUBSECTION (3)(b)(III.5)(A) OF THIS SECTION;

4 (VIII) THE TOTAL AMOUNT OF CIVIL PENALTIES ASSESSED;

5 (IX) THE TOTAL AMOUNT OF CIVIL PENALTIES WAIVED BY THE

6 DIVISION;

7 (X) THE AVERAGE AMOUNT OF CIVIL PENALTIES ASSESSED;

8 (XI) THE HIGHEST CIVIL PENALTY ASSESSED;

9 (XII) THE LOWEST CIVIL PENALTY ASSESSED;

10 (XIII) THE MEDIAN AMOUNT OF CIVIL PENALTIES ASSESSED; AND

11 (XIV) FOR EACH INDIVIDUAL OWNER OR OPERATOR THAT WAS

12 SUBJECT TO A FORMAL OR AN INFORMAL ACTION BY THE DIVISION IN THE

13 PREVIOUS CALENDAR YEAR, THE FOLLOWING INFORMATION:

14 (A) THE NAME OF THE OWNER OR OPERATOR;

15 (B) WHETHER THE OWNER OR OPERATOR IS A REPEAT VIOLATOR;

16 (C) WHETHER THE OWNER OR OPERATOR IS A HIGH-PRIORITY

17 REPEAT VIOLATOR;

18 (D) THE TOTAL NUMBER OF INFORMAL ACTIONS TAKEN AGAINST

19 THE OWNER OR OPERATOR DURING THE PREVIOUS CALENDAR YEAR,

20 INCLUDING ANY CASE NUMBER FOR THE ACTIONS;

21 (E) THE TOTAL NUMBER OF VIOLATIONS AND NONCOMPLIANCES

22 INCLUDED IN EACH CASE NUMBER FOR EACH INFORMAL ACTION TAKEN

23 AGAINST THE OWNER OR OPERATOR, INCLUDING THE START DATES AND

24 END DATES FOR EACH VIOLATION AND NONCOMPLIANCE;

25 (F) THE TOTAL NUMBER OF FORMAL ACTIONS TAKEN AGAINST THE

26 OWNER OR OPERATOR DURING THE PREVIOUS CALENDAR YEAR, INCLUDING

27 ANY CASE NUMBER FOR THE ACTIONS;

1 (G) THE TOTAL NUMBER OF VIOLATIONS AND NONCOMPLIANCES  
2 INCLUDED IN EACH CASE NUMBER FOR EACH FORMAL ACTION TAKEN  
3 AGAINST THE OWNER OR OPERATOR, INCLUDING THE START DATES AND  
4 END DATES FOR EACH VIOLATION AND NONCOMPLIANCE; AND

5 (H) THE TOTAL AGGREGATE NUMBER OF DAYS IN THE PREVIOUS  
6 CALENDAR YEAR WHEN AN INDIVIDUAL FACILITY OF THE OWNER OR  
7 OPERATOR CAUSED A VIOLATION OR NONCOMPLIANCE.

8 (b) THE REPORT PREPARED PURSUANT TO SUBSECTION (13)(a) OF  
9 THIS SECTION MUST ALSO INCLUDE THE INFORMATION DESCRIBED IN  
10 SUBSECTION (13)(a) OF THIS SECTION, SEPARATED BY EACH  
11 NONATTAINMENT AREA AND DISPROPORTIONATELY IMPACTED  
12 COMMUNITY IN THE STATE.

13 **SECTION 3.** In Colorado Revised Statutes, 25-7-122, **add** (1.5)  
14 and (2)(d) as follows:

15 **25-7-122. Civil penalties - rules - definitions.**  
16 (1.5) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY:

17 (a) THE DIVISION OR A DISTRICT COURT SHALL ASSESS A CIVIL  
18 PENALTY AGAINST A REPEAT VIOLATOR FOR EACH VIOLATION THAT IS AT  
19 LEAST FIFTY PERCENT OF THE MAXIMUM CIVIL PENALTY APPLICABLE TO  
20 THE VIOLATION PURSUANT TO SUBSECTION (1) OF THIS SECTION; AND

21 (b) IF A REPEAT VIOLATOR COMMITS A VIOLATION IN A  
22 DISPROPORTIONATELY IMPACTED COMMUNITY, THE DIVISION OR A  
23 DISTRICT COURT SHALL ASSESS A CIVIL PENALTY FOR EACH VIOLATION  
24 THAT IS AT LEAST SEVENTY-FIVE PERCENT OF THE MAXIMUM CIVIL  
25 PENALTY APPLICABLE TO THE VIOLATION PURSUANT TO SUBSECTION (1) OF  
26 THIS SECTION.

27 (2) (d) THIS SUBSECTION (2) DOES NOT APPLY TO A CIVIL PENALTY

1 ASSESSED AGAINST A REPEAT VIOLATOR.

2 **SECTION 4.** In Colorado Revised Statutes, 25-7-105, **add** (21)  
3 as follows:

4 **25-7-105. Duties of commission - technical secretary - rules -**  
5 **report - legislative declaration - definitions - repeal.** (21) (a) AN  
6 OWNER OR OPERATOR OF A STATIONARY SOURCE SHALL SUBMIT THE  
7 FOLLOWING DOCUMENTS TO THE DIVISION:

8 (I) ANY REPORT THAT THE OWNER OR OPERATOR IS REQUIRED TO  
9 SUBMIT TO AN ENTITY PURSUANT TO FEDERAL OR STATE LAW; AND

10 (II) ANY RECORD THAT THE OWNER OR OPERATOR IS REQUIRED TO  
11 CREATE OR MAINTAIN PURSUANT TO FEDERAL OR STATE LAW OR ANY  
12 CONDITION OF A PERMIT.

13 (b) AN OWNER OR OPERATOR OF A STATIONARY SOURCE SHALL  
14 SUBMIT THE DOCUMENTS DESCRIBED IN SUBSECTION (21)(a) OF THIS  
15 SECTION PURSUANT TO A TIMELINE SPECIFIED BY RULE BY THE  
16 COMMISSION, WHICH TIMELINE MUST BE NO LONGER THAN SIX MONTHS  
17 AFTER THE DOCUMENT IS GENERATED.

18 (c) THE DIVISION SHALL POST ANY DOCUMENT RECEIVED BY THE  
19 DIVISION PURSUANT TO THIS SUBSECTION (21) ON THE DIVISION'S WEBSITE  
20 WITHIN THIRTY DAYS AFTER THE DIVISION RECEIVES THE DOCUMENT.

21 **SECTION 5.** In Colorado Revised Statutes, 25-7-128, **amend** (8)  
22 as follows:

23 **25-7-128. Local government - authority - penalty.** (8) Any  
24 person who violates any emission standard or emission control regulation  
25 adopted by a local governmental entity, where ~~such~~ THE local government  
26 has not submitted its standards or regulations as revisions to the state  
27 implementation plan, ~~shall be~~ IS subject to a civil penalty of not more than

1 ~~three hundred dollars~~ THE CIVIL PENALTY AMOUNTS DESCRIBED IN  
2 SECTION 25-7-122 (1) AND (1.5). Each day ~~during which such~~ a violation  
3 occurs ~~shall be deemed~~ IS a separate offense.

4 **SECTION 6.** In Colorado Revised Statutes, **amend** 34-60-114 as  
5 follows:

6 **34-60-114. Action for damages.** (1) (a) ~~Nothing in this article,~~  
7 ~~and no suit by or against the commission, and no violation charged or~~  
8 ~~asserted against any person under any provisions of this article, or any~~  
9 ~~rule, regulation, or order issued under this article,~~ THE FOLLOWING shall  
10 NOT impair, abridge, or delay any cause of action for damages ~~which~~  
11 THAT any person may have or assert against ~~any~~ ANOTHER person  
12 violating any provision of this ~~article,~~ ARTICLE 60 or any rule ~~regulation,~~  
13 or order issued under this ~~article.~~ ARTICLE 60:

14 (I) ANY PROVISION OF THIS ARTICLE 60;

15 (II) A SUIT BY OR AGAINST THE COMMISSION;

16 (III) A VIOLATION CHARGED OR ASSERTED AGAINST ANY PERSON  
17 UNDER THIS ARTICLE 60; AND

18 (IV) ANY RULE OR ORDER ISSUED UNDER THIS ARTICLE 60.

19 (b) ~~Any~~ A person ~~so~~ damaged by ~~the~~ A violation DESCRIBED  
20 UNDER SUBSECTION (1)(a) OF THIS SECTION may sue for and recover ~~such~~  
21 damages as ~~he~~ THE PERSON otherwise may be entitled to receive.

22 (2) (a) ~~In the event~~ IF the commission fails to bring suit to enjoin  
23 any actual or threatened violation of this ~~article,~~ ARTICLE 60 or of any rule  
24 ~~regulation,~~ or order made under this ~~article,~~ ~~then~~ ARTICLE 60, any person  
25 or party in interest adversely affected ~~and~~ BY THE ACTUAL VIOLATION OR  
26 THREATENED VIOLATION who has notified the commission in writing of  
27 ~~such violation or threat thereof~~ THE ACTUAL VIOLATION OR THREATENED

1 VIOLATION and has requested the commission to sue may, to prevent any  
2 or further violation, bring suit for that purpose in the district court of any  
3 county in which the commission could have brought suit.

4 (b) If, in ~~such suit~~ A LAWSUIT DESCRIBED IN SUBSECTION (2)(a) OF  
5 THIS SECTION, the court holds that injunctive relief should be granted,  
6 ~~then the commission shall be made~~ THE COURT SHALL:

7 (I) MAKE THE COMMISSION a party ~~and shall be substituted~~ TO THE  
8 SUIT;

9 (II) IF REQUESTED BY THE COMPLAINING PARTY, SUBSTITUTE THE  
10 COMMISSION for the ~~person who brought the suit,~~ COMPLAINING PARTY;  
11 ~~and the injunction shall be issued~~

12 (III) ISSUE THE INJUNCTION as if the commission had at all times  
13 been the complaining party.

14 (3) IN ISSUING A FINAL JUDGMENT, RULING, OR ORDER IN A  
15 LAWSUIT DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION, THE DISTRICT  
16 COURT SHALL AWARD THE COMPLAINING PARTY ANY COSTS THAT THE  
17 COMPLAINING PARTY INCURS IN LITIGATING THE LAWSUIT, INCLUDING  
18 REASONABLE ATTORNEY FEES, EXPERT WITNESS FEES, AND OTHER  
19 RELATED COSTS IF THE COURT DETERMINES THAT THE AWARD IS  
20 APPROPRIATE. AN AWARD IS APPROPRIATE IF, AS DETERMINED BY THE  
21 DISTRICT COURT:

22 (a) THE COMPLAINING PARTY OR THE COMMISSION, IF THE  
23 COMMISSION HAS BEEN SUBSTITUTED FOR THE COMPLAINING PARTY  
24 PURSUANT TO SUBSECTION (2)(b)(II) OF THIS SECTION, PREVAILS ON ONE  
25 OR MORE OF ITS CLAIMS;

26 (b) THE LAWSUIT IS SUBSTANTIALLY RESPONSIBLE FOR STOPPING  
27 A VIOLATION OR BRINGING AN ALLEGED VIOLATOR INTO COMPLIANCE; OR

1 (c) THE LAWSUIT HAS SERVED THE PUBLIC INTEREST.

2 **SECTION 7.** In Colorado Revised Statutes, 24-77-102, **amend**  
3 (2) as follows:

4 **24-77-102. Definitions.** As used in this article 77, unless the  
5 context otherwise requires:

6 (2) (a) "Damage award" means any pecuniary compensation  
7 received by the state as a result of any judgment or allowance in favor of  
8 the state.

9 (b) "DAMAGE AWARD" INCLUDES A CIVIL PENALTY ASSESSED BY  
10 A STATE AGENCY FOR VIOLATION OF A STATE LAW.

11 **SECTION 8. Applicability.** (1) This act applies to:

12 (a) With respect to repeat violators, a fifth or subsequent violation  
13 occurring on and after the effective date of this act; and

14 (b) Enforcement actions occurring on or after the effective date of  
15 this act, including enforcement actions pending on or after the effective  
16 date of this act.

17 **SECTION 9. Safety clause.** The general assembly finds,  
18 determines, and declares that this act is necessary for the immediate  
19 preservation of the public peace, health, or safety or for appropriations for  
20 the support and maintenance of the departments of the state and state  
21 institutions.