

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

BILL C

LLS NO. 18-0227.01 Jennifer Berman x3286

HOUSE BILL

HOUSE SPONSORSHIP

Arndt and Hansen, Esgar

SENATE SPONSORSHIP

Donovan, Coram, Jones

House Committees

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE ALLOWABLE USES OF RECLAIMED DOMESTIC
102 WASTEWATER, AND, IN CONNECTION THEREWITH, ALLOWING
103 RECLAIMED DOMESTIC WASTEWATER TO BE USED FOR
104 MARIJUANA CULTIVATION.

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/>.)

Water Resources Review Committee. The bill codifies rules promulgated by the water quality control commission (commission) of the Colorado department of public health and environment concerning

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

allowable uses of reclaimed domestic wastewater, which is wastewater that has been treated for subsequent reuses other than drinking water. **Section 3** of the bill defines 3 categories of water quality standards for reclaimed domestic wastewater, sets forth the allowable uses for each water quality standard category, and adds marijuana cultivation as an allowable use for reclaimed domestic wastewater. Section 3 also authorizes the commission to establish new categories of water quality standards and to recategorize any use of reclaimed domestic wastewater to a less stringent category of water quality standard. Section 3 also authorizes the division of administration in the department of public health and environment to grant variances for uses of reclaimed domestic wastewater. **Sections 1, 2, and 4** make conforming amendments.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25-8-103, **amend**
3 (17.5) as follows:

4 **25-8-103. Definitions.** As used in this article 8, unless the context
5 otherwise requires:

6 (17.5) "Reclaimed domestic wastewater" means wastewater that
7 has received treatment IN ACCORDANCE WITH SECTION 25-8-205.7 AND
8 that enables the wastewater to meet the requirements, prohibitions,
9 standards, and concentration limitations adopted by the commission for
10 subsequent reuses other than drinking.

11 **SECTION 2.** In Colorado Revised Statutes, 25-8-205, **amend**
12 (1)(f) as follows:

13 **25-8-205. Control regulations.** (1) The commission may
14 promulgate control regulations for the following purposes:

15 (f) IN ACCORDANCE WITH SECTION 25-8-205.7, to describe
16 requirements, prohibitions, standards, and concentration limitations on the
17 reuse of reclaimed domestic wastewater for purposes other than drinking
18 that will protect public health and encourage the reuse of reclaimed
19 domestic wastewater;

1 **SECTION 3.** In Colorado Revised Statutes, **add 25-8-205.7** as
2 follows:

3 **25-8-205.7. Control regulations for reuse of reclaimed**
4 **domestic wastewater - definitions - rules.** (1) AS USED IN THIS SECTION,
5 UNLESS THE CONTEXT OTHERWISE REQUIRES:

6 (a) "CATEGORY 1 STANDARD" MEANS A WATER QUALITY
7 STANDARD FOR RECLAIMED DOMESTIC WASTEWATER:

8 (I) REQUIRING, AT A MINIMUM, THAT THE WATER HAS RECEIVED
9 SECONDARY TREATMENT WITH DISINFECTION; AND

10 (II) FOR WHICH, AT THE POINT OF COMPLIANCE, THE WATER MEETS
11 THE E. COLI AND TOTAL SUSPENDED SOLIDS STANDARDS PROMULGATED BY
12 THE COMMISSION FOR CATEGORY 1 WATER.

13 (b) "CATEGORY 2 STANDARD" MEANS A WATER QUALITY
14 STANDARD FOR RECLAIMED DOMESTIC WASTEWATER:

15 (I) REQUIRING, AT A MINIMUM, THAT THE WATER HAS RECEIVED
16 SECONDARY TREATMENT WITH FILTRATION AND DISINFECTION; AND

17 (II) FOR WHICH, AT THE POINT OF COMPLIANCE, THE WATER MEETS
18 THE E. COLI AND TURBIDITY STANDARDS PROMULGATED BY THE
19 COMMISSION FOR CATEGORY 2 WATER.

20 (c) "CATEGORY 3 STANDARD" MEANS A WATER QUALITY
21 STANDARD FOR RECLAIMED DOMESTIC WASTEWATER:

22 (I) REQUIRING, AT A MINIMUM, THAT THE WATER HAS RECEIVED
23 SECONDARY TREATMENT WITH FILTRATION AND DISINFECTION; AND

24 (II) FOR WHICH, AT THE POINT OF COMPLIANCE, THE WATER MEETS
25 THE E. COLI AND TURBIDITY STANDARDS PROMULGATED BY THE
26 COMMISSION FOR CATEGORY 3 WATER.

27 (d) "E. COLI" MEANS THE ESCHERICHIA COLI BACTERIA THAT ARE

1 FOUND IN THE ENVIRONMENT, FOODS, AND THE INTESTINES OF PEOPLE AND
2 ANIMALS.

3 (e) (I) "FOOD CROP" MEANS A CROP PRODUCED FOR DIRECT HUMAN
4 CONSUMPTION OR A TREE THAT PRODUCES NUTS OR FRUIT INTENDED FOR
5 DIRECT HUMAN CONSUMPTION.

6 (II) "FOOD CROP" DOES NOT INCLUDE A CROP PRODUCED FOR
7 ANIMAL CONSUMPTION ONLY; EXCEPT THAT A CROP PRODUCED WHERE
8 LACTATING DAIRY ANIMALS FORAGE IS A FOOD CROP.

9 (f) (I) "MARIJUANA" HAS THE SAME MEANING AS SET FORTH IN
10 SECTION 16 (2)(f) OF ARTICLE XVIII OF THE COLORADO CONSTITUTION.

11 (II) "MARIJUANA" INCLUDES A USABLE FORM OF MARIJUANA USED
12 FOR MEDICAL USE, AS THOSE TERMS ARE DEFINED IN SECTION 14 (1) OF
13 ARTICLE XVIII OF THE COLORADO CONSTITUTION.

14 (g) "POINT OF COMPLIANCE" MEANS A POINT, AS IDENTIFIED BY
15 THE PERSON THAT TREATS THE WATER, IN THE RECLAIMED DOMESTIC
16 WASTEWATER TREATMENT PROCESS OR THE RECLAIMED DOMESTIC
17 WASTEWATER TRANSPORTATION PROCESS, THAT OCCURS AFTER ALL
18 TREATMENT HAS BEEN COMPLETED BUT BEFORE DILUTION AND BLENDING
19 OF THE WATER HAS OCCURRED.

20 (2) RECLAIMED DOMESTIC WASTEWATER MAY BE USED AS
21 FOLLOWS:

- 22 (a) IN COMPLIANCE WITH THE CATEGORY 1 STANDARD, FOR:
- 23 (I) EVAPORATIVE INDUSTRIAL PROCESSES;
 - 24 (II) NONEVAPORATIVE INDUSTRIAL PROCESSES;
 - 25 (III) NONDISCHARGING CONSTRUCTION AND ROAD MAINTENANCE;
 - 26 (IV) LANDSCAPE IRRIGATION AT SITES WITH RESTRICTED ACCESS;
 - 27 (V) ZOO OPERATIONS;

1 (VI) IRRIGATION OF CROPS THAT ARE NOT FOOD CROPS; AND
2 (VII) SILVICULTURE.
3 (b) IN COMPLIANCE WITH THE CATEGORY 2 STANDARD, FOR:
4 (I) ALL OF THE USES FOR WHICH RECLAIMED DOMESTIC
5 WASTEWATER MAY BE USED IN COMPLIANCE WITH THE CATEGORY 1
6 STANDARD;
7 (II) WASHWATER APPLICATIONS;
8 (III) LANDSCAPE IRRIGATION AT SITES WITHOUT RESTRICTED
9 ACCESS;
10 (IV) COMMERCIAL LAUNDRIES;
11 (V) AUTOMATED VEHICLE WASHING;
12 (VI) MANUAL, NONPUBLIC VEHICLE WASHING;
13 (VII) NONRESIDENTIAL FIRE PROTECTION; AND
14 (VIII) MARIJUANA CULTIVATION.
15 (c) IN COMPLIANCE WITH THE CATEGORY 3 STANDARD, FOR:
16 (I) ALL OF THE USES FOR WHICH RECLAIMED DOMESTIC
17 WASTEWATER MAY BE USED IN COMPLIANCE WITH THE CATEGORY 1
18 STANDARD AND THE CATEGORY 2 STANDARD;
19 (II) LANDSCAPE IRRIGATION AT SITES THAT ARE CONTROLLED BY
20 RESIDENTS; AND
21 (III) RESIDENTIAL FIRE PROTECTION.
22 (3) IN ADDITION TO COMPLYING WITH THE CATEGORY 2 STANDARD
23 PURSUANT TO SUBSECTION (2)(b)(VIII) OF THIS SECTION, REGARDLESS OF
24 WHETHER THE USE IS FOR MARIJUANA PRODUCED FOR COMMERCIAL OR
25 NONCOMMERCIAL USE, RECLAIMED DOMESTIC WASTEWATER MAY BE USED
26 FOR MARIJUANA CULTIVATION ONLY IF THE USE MEETS THE WATER
27 QUALITY STANDARDS FOR COMMERCIAL CROPS SET FORTH IN THE FEDERAL

1 "FDA FOOD SAFETY MODERNIZATION ACT", PUB.L. 111-353, AS
2 AMENDED. IN PROMULGATING RULES FOR THE CATEGORY 2 STANDARD AT
3 THE POINT OF COMPLIANCE FOR USE OF RECLAIMED DOMESTIC
4 WASTEWATER FOR MARIJUANA CULTIVATION, THE COMMISSION SHALL NOT
5 PROMULGATE ANY RULE THAT IS MORE STRINGENT THAN THE RELEVANT
6 STANDARDS SET FORTH IN THE FEDERAL "FDA FOOD SAFETY
7 MODERNIZATION ACT", PUB.L. 111-353, AS AMENDED.

8 (4) (a) ON OR BEFORE DECEMBER 31, 2019, THE COMMISSION
9 SHALL PROMULGATE RULES IN ACCORDANCE WITH THIS SECTION.

10 (b) IN PROMULGATING RULES IN ACCORDANCE WITH THIS SECTION,
11 THE COMMISSION:

12 (I) MAY CREATE NEW CATEGORIES OF WATER QUALITY
13 STANDARDS BEYOND THE THREE CATEGORIES SET FORTH IN THIS SECTION;
14 AND

15 (II) MAY RECATEGORIZE ANY OF THE USES SET FORTH IN
16 SUBSECTION (2) OF THIS SECTION TO A LESS STRINGENT CATEGORY OF
17 WATER QUALITY STANDARD.

18 (c) THE COMMISSION, BY RULE, MAY AUTHORIZE ADDITIONAL USES
19 OF RECLAIMED DOMESTIC WASTEWATER FOR ANY OF THE CATEGORIES OF
20 WATER QUALITY STANDARDS SET FORTH IN SUBSECTION (2) OF THIS
21 SECTION OR MAY CREATE A NEW CATEGORY OF WATER QUALITY
22 STANDARD FOR ONE OR MORE ADDITIONAL USES OF RECLAIMED DOMESTIC
23 WASTEWATER.

24 (5) THE DIVISION MAY GRANT A USER OF RECLAIMED DOMESTIC
25 WASTEWATER A VARIANCE FROM THE WATER QUALITY STANDARDS SET
26 FORTH IN SUBSECTION (2) OF THIS SECTION OR ESTABLISHED BY RULE BY
27 THE COMMISSION PURSUANT TO SUBSECTION (4) OF THIS SECTION IF THE

1 USER DEMONSTRATES TO THE DIVISION'S SATISFACTION THAT THE
2 PROPOSED USAGE OF RECLAIMED DOMESTIC WASTEWATER WILL
3 SUFFICIENTLY PROTECT PUBLIC HEALTH AND THE ENVIRONMENT.

4 **SECTION 4.** In Colorado Revised Statutes, 25-8-308, **amend** (1)
5 introductory portion and (1)(h) as follows:

6 **25-8-308. Additional authority and duties of division -**
7 **penalties.** (1) In addition to the authority specified elsewhere in this
8 ~~article~~ ARTICLE 8, the division has the power to:

9 (h) Implement a program, in accordance with SECTION 25-8-205.7
10 AND rules and orders of the commission, for the reuse of reclaimed
11 domestic wastewater for purposes other than drinking.

12 **SECTION 5. Act subject to petition - effective date.** This act
13 takes effect at 12:01 a.m. on the day following the expiration of the
14 ninety-day period after final adjournment of the general assembly (August
15 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
16 referendum petition is filed pursuant to section 1 (3) of article V of the
17 state constitution against this act or an item, section, or part of this act
18 within such period, then the act, item, section, or part will not take effect
19 unless approved by the people at the general election to be held in
20 November 2018 and, in such case, will take effect on the date of the
21 official declaration of the vote thereon by the governor.