

CHAPTER 237

HEALTH AND ENVIRONMENT

SENATE BILL 98-179

BY SENATORS Dennis, Bishop, Perlmutter, Chlouber, Norton, and Tebedo;
also REPRESENTATIVES Young, Tate, and Udall.

AN ACT

CONCERNING ENFORCEMENT OF THE FEDERAL "SAFE DRINKING WATER ACT" BY THE DEPARTMENT OF
PUBLIC HEALTH AND ENVIRONMENT.

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

SECTION 1. 25-1-107 (1) (x) (II) (A), Colorado Revised Statutes, is amended, and the said 25-1-107 (1) (x) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

25-1-107. Powers and duties of the department - repeal. (1) The department has, in addition to all other powers and duties imposed upon it by law, the following powers and duties:

(x) (II) Standards and regulations adopted pursuant to this paragraph (x) may also include such minimum standards and regulations as are necessary to assume enforcement of the federal "Safe Drinking Water Act" with regard to public water systems, including, but not limited to, requirements for:

(A) ~~Review and approval by the department, prior to construction, of plans and specifications for new waterworks or for improvements or modifications to existing waterworks to ensure that such facilities will be capable of complying with adopted drinking water standards. The department may impose conditions in approving such plans and specifications to assure continued compliance with applicable standards, rules, and regulations of the department. Such approval shall not relieve the supplier of water from compliance with adopted standards and regulations of the department. For the purposes of this subparagraph (II), "waterworks" means only the facility which produces or treats drinking water to be supplied to the public, including drinking water vending and dispensing machines.~~ REVIEW AND APPROVAL BY THE DEPARTMENT, PRIOR TO INITIATION OF CONSTRUCTION, OF THE TECHNICAL PLANS AND

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SPECIFICATIONS, LONG-TERM FINANCIAL PLANS, AND OPERATIONS AND MANAGEMENT PLANS FOR ANY NEW WATERWORKS OR TECHNICAL PLANS AND SPECIFICATIONS FOR SUBSTANTIAL MODIFICATIONS TO EXISTING WATERWORKS. FOR THE PURPOSES OF THIS SUBPARAGRAPH (II), "WATERWORKS" MEANS THE FACILITIES THAT ARE DIRECTLY INVOLVED IN THE PRODUCTION, TREATMENT, OR DISTRIBUTION OF WATER FOR PUBLIC WATER SYSTEMS, AS DEFINED IN SECTION 141.2 OF THE NATIONAL PRIMARY DRINKING WATER REGULATIONS. THE DEPARTMENT SHALL APPROVE THOSE NEW OR SUBSTANTIALLY MODIFIED WATERWORKS IT DETERMINES ARE CAPABLE OF COMPLYING WITH THE COLORADO PRIMARY DRINKING WATER REGULATIONS.

(IX) (A) TO ASSIST SUPPLIERS OF WATER IN THE STATE WITH MEETING THEIR RESPONSIBILITIES WITH RESPECT TO PROTECTION OF PUBLIC HEALTH, THE DEPARTMENT, IN THE NAME OF THE STATE AND TO THE EXTENT THAT STATE FUNDS ARE APPROPRIATED THEREFOR, MAY ENTER INTO CONTRACTS WITH BOTH GOVERNMENTAL AND NOT-FOR-PROFIT PUBLIC WATER SYSTEMS, AS DEFINED IN SUBPARAGRAPH (V) OF THIS PARAGRAPH (x), OR TO COUNTIES REPRESENTING UNINCORPORATED AREAS, WHICH SERVE A POPULATION OF NOT MORE THAN FIVE THOUSAND PEOPLE, TO GRANT MONEYS FOR PROJECTS INCLUDING THE PLANNING, DESIGN, AND CONSTRUCTION OF WATER TREATMENT SYSTEMS.

(B) THE DEPARTMENT MAY USE UP TO FIVE PERCENT OF THE APPROPRIATED FUNDS FOR THE ADMINISTRATION AND MANAGEMENT OF SUCH PROJECT GRANTS.

(C) THE STATE BOARD OF HEALTH SHALL PROMULGATE RULES FOR THE ADMINISTRATION OF ANY APPROPRIATED GRANT MONEYS AND FOR PRIORITIZING PROPOSED WATER TREATMENT SYSTEM PROJECTS BASED UPON PUBLIC HEALTH IMPACT AND COMPLIANCE WITH APPLICABLE REGULATIONS.

(D) DURING THE GRANT APPLICATION PROCESS, THE DEPARTMENT SHALL SEEK FROM THE DIVISION OF LOCAL GOVERNMENT IN THE DEPARTMENT OF LOCAL AFFAIRS A FISCAL ANALYSIS OF THE APPLYING ENTITY TO DETERMINE FINANCIAL NEED. BASED UPON ITS FISCAL ANALYSIS, THE DIVISION OF LOCAL GOVERNMENT SHALL ISSUE OR DENY A CERTIFICATE OF FINANCIAL NEED. IF A CERTIFICATE OF FINANCIAL NEED IS ISSUED, THE DEPARTMENT MAY AUTHORIZE A STATE GRANT TO THE PROJECT IN ACCORDANCE WITH THE PROJECT PRIORITIZATION ADOPTED BY THE DEPARTMENT.

SECTION 2. 25-1-114.1 (1), Colorado Revised Statutes, is amended, and the said 25-1-114.1 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

25-1-114.1. Civil remedies and penalties. (1) The division of administration of the department may institute a civil action OR ADMINISTRATIVE ACTION, AS DESCRIBED IN SUBSECTION (2.5) OF THIS SECTION, against any person who violates a final enforcement order of the department issued for a violation of any minimum general sanitary standard or regulation adopted pursuant to section 25-1-107 (1) (x). Such CIVIL action shall be brought in the district court of the county in which the violation of the standard or regulation is alleged to have occurred.

(2.5) (a) ANY PERSON WHO VIOLATES ANY MINIMUM GENERAL SANITARY STANDARD AND REGULATION PROMULGATED PURSUANT TO SECTION 25-1-107 (1) (x) OR 25-1-114 (1) (h), OR ANY FINAL ENFORCEMENT ORDER ISSUED BY THE

DEPARTMENT, SHALL BE SUBJECT TO AN ADMINISTRATIVE PENALTY AS FOLLOWS:

(I) FOR SYSTEMS THAT SERVE A POPULATION OF MORE THAN TEN THOUSAND PEOPLE, AN AMOUNT NOT TO EXCEED ONE THOUSAND DOLLARS PER VIOLATION PER DAY; OR

(II) FOR SYSTEMS THAT SERVE A POPULATION OF TEN THOUSAND PEOPLE OR LESS, AN AMOUNT NOT TO EXCEED ONE THOUSAND DOLLARS PER VIOLATION PER DAY, BUT ONLY IN AN AMOUNT, AS DETERMINED BY THE DIVISION, THAT IS NECESSARY TO ENSURE COMPLIANCE.

(b) PENALTIES UNDER THIS SUBSECTION (2.5) SHALL BE DETERMINED BY THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE AND MAY BE COLLECTED BY THE DIVISION BY AN ACTION INSTITUTED IN A COURT OF COMPETENT JURISDICTION FOR COLLECTION OF SUCH PENALTY. THE FINAL DECISION OF THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE MAY BE APPEALED TO THE STATE BOARD OF HEALTH. A STAY OF ANY ORDER OF THE DIVISION ENDING JUDICIAL REVIEW SHALL NOT RELIEVE ANY PERSON FROM ANY LIABILITY WITH RESPECT TO PAST OR CONTINUING VIOLATIONS OF ANY MINIMUM GENERAL SANITARY STANDARD OR ANY REGULATION PROMULGATED PURSUANT TO SECTION 25-7-107 (1) (x) OR 25-1-114 (1) (h), BUT THE REASON FOR THE REQUEST FOR JUDICIAL REVIEW SHALL BE CONSIDERED IN THE DETERMINATION OF THE AMOUNT OF THE PENALTY. IN THE EVENT THAT SUCH AN ACTION IS INSTITUTED FOR THE COLLECTION OF SUCH PENALTY, THE COURT MAY CONSIDER THE APPROPRIATENESS OF THE AMOUNT OF THE PENALTY, IF SUCH ISSUE IS RAISED BY THE PARTY AGAINST WHOM THE PENALTY WAS ASSESSED. ANY ADMINISTRATIVE PENALTY COLLECTED UNDER THIS SECTION SHALL BE CREDITED TO THE GENERAL FUND.

SECTION 3. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 26, 1998