

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Business, Labor, & Technology.

SB23-060 be amended as follows:

1 Amend printed bill, page 2, line 3, after "(1)(h)" insert "and (6)".

2 Page 5, after line 11 insert:

3 "(6) AN OPERATOR OR RIGHTS HOLDER THAT BRINGS A CIVIL
4 ACTION PURSUANT TO SECTION 6-1-113 FOR A VIOLATION OF THIS SECTION
5 IS SUBJECT TO THE PROCEDURES OUTLINED IN SECTION 6-1-720 (5).".

6 Page 5, line 15, before "**definitions.**" insert "**penalties - civil actions -**".

7 Page 9, after line 21 insert:

8 "(5) (a) THE ATTORNEY GENERAL OR A DISTRICT ATTORNEY MAY
9 BRING AN ACTION ON BEHALF OF THE STATE AGAINST ANY PERSON:

10 (I) FOR A VIOLATION OF THIS SECTION OR SECTION 6-1-718; OR
11 (II) FOR A VIOLATION OF THIS SECTION OR SECTION 6-1-718 IN
12 CONNECTION WITH A CIVIL ACTION BROUGHT BY AN OPERATOR OR RIGHTS
13 HOLDER PURSUANT TO THIS SUBSECTION (5) OF THIS SECTION AND SECTION
14 6-1-113.

15 (b) AN OPERATOR OR RIGHTS HOLDER MAY BRING A CIVIL ACTION
16 PURSUANT TO SECTION 6-1-113 IN A COURT OF COMPETENT JURISDICTION
17 AGAINST ANOTHER PERSON FOR A VIOLATION OF THIS SECTION OR SECTION
18 6-1-718.

19 (c) (I) AN OPERATOR OR RIGHTS HOLDER THAT BRINGS A PRIVATE
20 ACTION AGAINST ANOTHER PERSON SHALL SERVE, PURSUANT TO RULE 4 OF
21 THE COLORADO RULES OF CIVIL PROCEDURE, THE ATTORNEY GENERAL
22 AND THE DISTRICT ATTORNEY OF THE DISTRICT IN WHICH THE CLAIM WAS
23 FILED A COPY OF THE COMPLAINT AND WRITTEN DISCLOSURE OF
24 SUBSTANTIALLY ALL MATERIAL EVIDENCE AND INFORMATION THE PERSON
25 POSSESSES.

26 (II) THE COMPLAINT MUST BE FILED WITH THE COURT IN CAMERA,
27 MUST REMAIN UNDER SEAL FOR AT LEAST SIXTY-THREE DAYS, AND MUST
28 NOT BE SERVED ON THE DEFENDANT UNTIL THE COURT SO ORDERS.

29 (III) THE DEFENDANT IS NOT REQUIRED TO RESPOND TO ANY
30 COMPLAINT FILED PURSUANT TO THIS SECTION UNTIL TWENTY-ONE DAYS
31 AFTER THE COMPLAINT IS UNSEALED AND SERVED UPON THE DEFENDANT
32 PURSUANT TO RULE 4 OF THE COLORADO RULES OF CIVIL PROCEDURE.

33 (d) (I) THE ATTORNEY GENERAL OR DISTRICT ATTORNEY MAY
34 ELECT TO INTERVENE AND PROCEED WITH THE ACTION ON BEHALF OF THE
35 STATE WITHIN SIXTY-THREE DAYS AFTER IT RECEIVES BOTH THE
36 COMPLAINT AND THE MATERIAL EVIDENCE AND INFORMATION RELATED TO

1 THE CLAIM.

2 (II) THE ATTORNEY GENERAL OR DISTRICT ATTORNEY MAY, FOR
3 GOOD CAUSE SHOWN, MOVE THE COURT FOR AN EXTENSION OF TIME,
4 DURING WHICH THE COMPLAINT REMAINS UNDER SEAL PURSUANT TO
5 SUBSECTION (5)(c)(II) OF THIS SECTION. THE MOTION MAY BE SUPPORTED
6 BY AFFIDAVITS OR OTHER SUBMISSIONS IN CAMERA.

7 (e) BEFORE THE EXPIRATION OF THE SIXTY-THREE-DAY PERIOD
8 AND ANY EXTENSIONS GRANTED PURSUANT TO SUBSECTION (5)(d)(II) OF
9 THIS SECTION, THE ATTORNEY GENERAL OR DISTRICT ATTORNEY SHALL:

10 (I) PROCEED WITH THE ACTION ON BEHALF OF THE STATE, IN WHICH
11 CASE THE ATTORNEY GENERAL OR DISTRICT ATTORNEY SHALL CONDUCT
12 THE ACTION; OR

13 (II) NOTIFY THE COURT THAT IT DECLINES TO TAKE OVER THE
14 ACTION, IN WHICH CASE THE OPERATOR OR RIGHTS HOLDER THAT
15 BROUGHT THE ACTION HAS THE RIGHT TO CONTINUE THE ACTION.

16 (f) (I) IF THE ATTORNEY GENERAL OR DISTRICT ATTORNEY DECIDES
17 TO PROCEED WITH AN ACTION BROUGHT PURSUANT TO THIS SUBSECTION
18 (5), THE ATTORNEY GENERAL OR DISTRICT ATTORNEY HAS PRIMARY
19 RESPONSIBILITY FOR PROSECUTING THE ACTION AND IS NOT BOUND BY AN
20 ACT OF THE OPERATOR OR RIGHTS HOLDER THAT BROUGHT THE ACTION.

21 (II) THE OPERATOR OR RIGHTS HOLDER THAT BROUGHT THE
22 ACTION HAS THE RIGHT TO CONTINUE AS A PARTY TO THE ACTION, SUBJECT
23 TO ANY LIMITATIONS SET BY THE COURT.

24 (III) THE ATTORNEY GENERAL OR DISTRICT ATTORNEY, AT ANY
25 TIME, MAY DISMISS THE ACTION, IN WHOLE OR IN PART, NOTWITHSTANDING
26 THE OBJECTIONS OF THE OPERATOR OR RIGHTS HOLDER THAT BROUGHT
27 THE ACTION, AS LONG AS THE OPERATOR OR RIGHTS HOLDER HAS BEEN
28 NOTIFIED OF THE MOTION TO DISMISS AND THE COURT HAS PROVIDED THE
29 OPERATOR OR RIGHTS HOLDER WITH AN OPPORTUNITY FOR A HEARING ON
30 THE MOTION.

31 (IV) THE ATTORNEY GENERAL OR DISTRICT ATTORNEY MAY
32 SETTLE THE ACTION WITH THE DEFENDANT, NOTWITHSTANDING THE
33 OBJECTIONS OF THE OPERATOR OR RIGHTS HOLDER THAT BROUGHT THE
34 ACTION, IF THE COURT DETERMINES, AFTER A HEARING, THAT THE
35 PROPOSED SETTLEMENT IS FAIR, ADEQUATE, AND REASONABLE UNDER ALL
36 THE CIRCUMSTANCES.

37 (g) IF THE ATTORNEY GENERAL OR DISTRICT ATTORNEY PROCEEDS
38 WITH AN ACTION BROUGHT PURSUANT TO THIS SECTION OR SECTION
39 6-1-718 AND THE COURT DETERMINES THAT THE DEFENDANT HAS
40 VIOLATED THIS SECTION OR SECTION 6-1-718, THE COURT:

41 (I) SHALL IMPOSE CIVIL PENALTIES PURSUANT TO SUBSECTION
42 (4)(b) OF THIS SECTION, FOR A VIOLATION OF THIS SECTION, OR CIVIL
43 PENALTIES IN ACCORDANCE WITH SECTION 6-1-112, FOR A VIOLATION OF

1 SECTION 6-1-718; AND
2 (II) MAY AWARD DAMAGES IN ACCORDANCE WITH SECTION
3 6-1-113 TO THE OPERATOR OR RIGHTS HOLDER THAT BROUGHT THE
4 ACTION.".

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