

HOUSE COMMITTEE OF REFERENCE REPORT

\_\_\_\_\_ Date June 3, 2020  
Chair of Committee

Committee on Appropriations.

After consideration on the merits, the Committee recommends the following:

HB20-1143 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 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,

1 42-4-407, 42-4-409, 42-4-410, or 42-4-414 ~~C.R.S.~~, shall be IS subject to  
2 a civil penalty of not more than ~~fifteen~~ FORTY-SEVEN thousand THREE  
3 HUNDRED FIFTY-SEVEN dollars per day for each day of ~~such~~ THE violation;  
4 except that:

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

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

16 (d) Any person who violates any requirement, prohibition, or  
17 order respecting an operating permit issued pursuant to section  
18 25-7-114.3, including ~~but not limited to~~ failure to obtain such a permit,  
19 ~~or~~ to operate in compliance with any term or condition ~~thereof~~ OF THE  
20 PERMIT, or to pay the permit fee required under section 25-7-114.7 (2), or  
21 WHO commits a violation of section 25-7-109.6 ~~shall be~~ IS subject to a  
22 civil penalty of not more than ~~fifteen~~ FORTY-SEVEN thousand THREE  
23 HUNDRED FIFTY-SEVEN dollars per day for each violation; EXCEPT THAT,  
24 ON OR BEFORE DECEMBER 31, 2021, THE COMMISSION SHALL, BY RULE,  
25 ANNUALLY ADJUST THE AMOUNT OF THE MAXIMUM CIVIL PENALTY BASED  
26 ON THE PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF  
27 LABOR'S BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX FOR  
28 DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN  
29 CONSUMERS, OR ITS SUCCESSOR INDEX.

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

32 **25-8-608. Civil penalties - rules - fund created - temporary**  
33 **moratorium on penalties for minor violations - definitions - repeal.**

34 (1) ~~Except as otherwise provided in subsection (3) of this section, any~~ A  
35 person who violates ~~any provision of this article or of any~~ THIS ARTICLE  
36 8, A permit issued under this ~~article, or any~~ ARTICLE 8, A control  
37 regulation promulgated pursuant to this ~~article~~ ARTICLE 8, or ~~any~~ A final  
38 cease-and-desist order or clean-up order ~~shall be~~ IS subject to a civil  
39 penalty of not more than ~~ten~~ FIFTY-FOUR thousand EIGHT HUNDRED  
40 THIRTY-THREE dollars per day ~~for each day during which such~~ PER  
41 violation; ~~occurs~~ EXCEPT THAT, ON OR BEFORE DECEMBER 31, 2021, THE

1 COMMISSION SHALL, BY RULE, ANNUALLY ADJUST THE AMOUNT OF THE  
2 MAXIMUM CIVIL PENALTY BASED ON THE PERCENTAGE CHANGE IN THE  
3 UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS  
4 CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL  
5 ITEMS AND ALL URBAN CONSUMERS, OR ITS SUCCESSOR INDEX. In  
6 determining the amount of a penalty under this part 6, the following  
7 factors shall be considered:

8 (1.7) (d) (II) This subsection (1.7)(d) is repealed, effective  
9 September 1, ~~2021~~ 2025.

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

12 **25-8-609. Criminal pollution - penalties.** (2) Prosecution under  
13 ~~paragraph (a) of subsection (1) of this section shall be commenced only~~  
14 ~~upon complaint filed~~ REQUEST by the division or a peace officer, WHO  
15 MUST PRESENT EVIDENCE BASED ON REASONABLE SUSPICION TO EITHER  
16 THE ATTORNEY GENERAL OR A DISTRICT ATTORNEY FOR THE DISTRICT IN  
17 WHICH AN ALLEGED VIOLATION OCCURS. NO CRIMINAL VIOLATION WILL BE  
18 CHARGED WITHOUT PROBABLE CAUSE.

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

21 (a) ~~If the~~ FOR A violation is committed with criminal negligence  
22 or recklessly, as BOTH TERMS ARE defined in section 18-1-501, ~~C.R.S.~~, the  
23 VIOLATOR IS GUILTY OF A MISDEMEANOR, PUNISHABLE BY A maximum  
24 fine ~~shall be twelve~~ OF TWENTY-FIVE thousand ~~five hundred~~ dollars PER  
25 DAY FOR EACH DAY THE VIOLATION OCCURS, IMPRISONMENT OF UP TO ONE  
26 YEAR, OR BOTH.

27 (b) ~~If the~~ FOR A violation is committed knowingly or intentionally,  
28 as BOTH TERMS ARE defined in section 18-1-501, ~~C.R.S.~~, the VIOLATOR IS  
29 GUILTY OF A CLASS 5 FELONY AND, NOTWITHSTANDING SECTION  
30 18-1.3-401, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A  
31 maximum fine ~~shall be twenty-five~~ OF FIFTY thousand dollars PER DAY  
32 FOR EACH DAY THE VIOLATION OCCURS, IMPRISONMENT OF UP TO THREE  
33 YEARS, OR BOTH.

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

36 **25-8-610. Falsification and tampering - penalties.** (1) Any  
37 person who knowingly makes any MATERIAL false statement,  
38 representation, or certification in any application, record, report, plan, or  
39 other document filed or required to be maintained under this ~~article~~  
40 ARTICLE 8 or who falsifies, tampers with, or knowingly renders inaccurate  
41 any monitoring device or method required to be maintained under this

1 ~~article~~ ARTICLE 8 is guilty of a ~~misdemeanor~~ CLASS 5 FELONY and, upon  
2 conviction thereof, shall be punished by a fine of not more than ten  
3 thousand dollars, or by imprisonment in the county jail for not more than  
4 six months, or by both such fine and imprisonment AS SPECIFIED IN  
5 SECTION 18-1.3-401.

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

12 (3) IF TWO SEPARATE OFFENSES UNDER THIS SECTION OCCUR IN  
13 TWO SEPARATE OCCURRENCES DURING A PERIOD OF TWO YEARS,  
14 NOTWITHSTANDING SECTION 18-1.3-401, THE MAXIMUM FINE AND PERIOD  
15 OF IMPRISONMENT FOR THE SECOND OFFENSE ARE DOUBLE THE AMOUNTS  
16 SPECIFIED IN SECTION 18-1.3-401.

17 ~~(2)~~ (4) Any penalty collected under this section shall be credited  
18 to the general fund.

19 **SECTION 5. Potential appropriation.** Pursuant to section  
20 2-2-703, C.R.S., any bill that results in a net increase in periods of  
21 imprisonment in state correctional facilities must include an appropriation  
22 of money that is sufficient to cover any increased capital construction, any  
23 operational costs, and increased parole costs that are the result of the bill  
24 for the department of corrections in each of the first five years following  
25 the effective date of the bill. Because this act may increase periods of  
26 imprisonment, this act may require a five-year appropriation.

27 **SECTION 6. Applicability.** This act applies to conduct  
28 occurring, including fines assessed, on or after the effective date of this  
29 act.

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

33 Page 1, strike lines 104 and 105 and substitute "AND WATER QUALITY  
34 VIOLATIONS."."

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