

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

**PREAMENDED**

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

LLS NO. 18-0228.01 Jennifer Berman x3286

**SENATE BILL 18-038**

**SENATE SPONSORSHIP**

**Donovan and Coram**, Baumgardner, Jones, Sonnenberg

**HOUSE SPONSORSHIP**

**Esgar and Willett**, Arndt, Hansen, Saine

**Senate Committees**

Agriculture, Natural Resources, & Energy  
Appropriations

**House Committees**

Agriculture, Livestock, & Natural Resources  
Appropriations

**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 **INDUSTRIAL HEMP CULTIVATION AND MAKING AN**  
105 **APPROPRIATION.**

**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

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

SENATE  
3rd Reading Unamended  
April 12, 2018

SENATE  
Amended 2nd Reading  
April 11, 2018

Colorado department of public health and environment concerning 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 industrial hemp 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.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25-8-103, **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

1 domestic wastewater;

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

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

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

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

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

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

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

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

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

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

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

1 (d) "E. COLI" MEANS THE ESCHERICHIA COLI BACTERIA THAT ARE  
2 FOUND IN THE ENVIRONMENT, FOODS, AND THE INTESTINES OF PEOPLE AND  
3 ANIMALS.

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

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

10 (f) "INDUSTRIAL HEMP" HAS THE SAME MEANING AS SET FORTH IN  
11 SECTION 35-61-101 (7).

12 (g) (I) "POINT OF COMPLIANCE" MEANS, EXCEPT AS PROVIDED IN  
13 SUBSECTION (1)(g)(II) OF THIS SECTION, A POINT, AS IDENTIFIED BY THE  
14 PERSON THAT TREATS THE WATER, IN THE RECLAIMED DOMESTIC  
15 WASTEWATER TREATMENT PROCESS OR THE RECLAIMED DOMESTIC  
16 WASTEWATER TRANSPORTATION PROCESS, THAT OCCURS AFTER ALL  
17 TREATMENT HAS BEEN COMPLETED BUT BEFORE DILUTION AND BLENDING  
18 OF THE WATER HAS OCCURRED.

19 (II) IF RECLAIMED DOMESTIC WASTEWATER IS USED FOR INDOOR  
20 NONPOTABLE USES WITHIN A BUILDING WHERE PLUMBING FIXTURES ARE  
21 ACCESSIBLE BY THE GENERAL PUBLIC, "POINT OF COMPLIANCE" IS AT THE  
22 LOCATION WHERE WATER IS DELIVERED TO THE OCCUPIED PREMISES.

23 (2) RECLAIMED DOMESTIC WASTEWATER MAY BE USED AS  
24 FOLLOWS:

25 (a) IN COMPLIANCE WITH THE CATEGORY 1 STANDARD, FOR:

26 (I) EVAPORATIVE INDUSTRIAL PROCESSES;

27 (II) NONEVAPORATIVE INDUSTRIAL PROCESSES;

1 (III) NONDISCHARGING CONSTRUCTION AND ROAD MAINTENANCE;  
2 (IV) LANDSCAPE IRRIGATION AT SITES WITH RESTRICTED ACCESS;  
3 (V) ZOO OPERATIONS;  
4 (VI) WHEN NOT USED AS A FOOD CROP, IRRIGATION OF INDUSTRIAL  
5 HEMP OR ANOTHER CROP; AND

6 (VII) SILVICULTURE.

7 (b) IN COMPLIANCE WITH THE CATEGORY 2 STANDARD, FOR:

8 (I) ALL OF THE USES FOR WHICH RECLAIMED DOMESTIC  
9 WASTEWATER MAY BE USED IN COMPLIANCE WITH THE CATEGORY 1  
10 STANDARD;

11 (II) WASHWATER APPLICATIONS;

12 (III) LANDSCAPE IRRIGATION AT SITES WITHOUT RESTRICTED  
13 ACCESS;

14 (IV) COMMERCIAL LAUNDRIES;

15 (V) AUTOMATED VEHICLE WASHING;

16 (VI) MANUAL, NONPUBLIC VEHICLE WASHING; AND

17 (VII) NONRESIDENTIAL FIRE PROTECTION.

18 (c) IN COMPLIANCE WITH THE CATEGORY 3 STANDARD, FOR:

19 (I) ALL OF THE USES FOR WHICH RECLAIMED DOMESTIC  
20 WASTEWATER MAY BE USED IN COMPLIANCE WITH THE CATEGORY 1  
21 STANDARD AND THE CATEGORY 2 STANDARD;

22 (II) LANDSCAPE IRRIGATION AT SITES THAT ARE CONTROLLED BY  
23 RESIDENTS; AND

24 (III) RESIDENTIAL FIRE PROTECTION.

25 (3) ALL RECLAIMED DOMESTIC WASTEWATER SYSTEMS MUST BE  
26 COMPLIANT WITH AND INSTALLED IN ACCORDANCE WITH ARTICLE 58 OF  
27 TITLE 12 AND ANY RULES PROMULGATED PURSUANT TO THAT ARTICLE.

1 (4) (a) ON OR BEFORE DECEMBER 31, 2019, THE COMMISSION MAY  
2 PROMULGATE RULES IN ACCORDANCE WITH THIS SECTION.

3 (b) IN PROMULGATING RULES IN ACCORDANCE WITH THIS SECTION,  
4 THE COMMISSION:

5 (I) MAY CREATE NEW CATEGORIES OF WATER QUALITY  
6 STANDARDS BEYOND THE THREE CATEGORIES SET FORTH IN THIS SECTION;  
7 AND

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

11 (c) THE COMMISSION, BY RULE, MAY AUTHORIZE ADDITIONAL USES  
12 OF RECLAIMED DOMESTIC WASTEWATER FOR ANY OF THE CATEGORIES OF  
13 WATER QUALITY STANDARDS SET FORTH IN SUBSECTION (2) OF THIS  
14 SECTION OR MAY CREATE A NEW CATEGORY OF WATER QUALITY  
15 STANDARD FOR ONE OR MORE ADDITIONAL USES OF RECLAIMED DOMESTIC  
16 WASTEWATER.

17 (d) THE COMMISSION MAY PROMULGATE RULES MORE STRINGENT  
18 THAN THE STANDARDS AND CATEGORIES SET FORTH IN SUBSECTION (2) OF  
19 THIS SECTION ONLY IF THE COMMISSION:

20 (I) DETERMINES THAT THE STANDARDS AND CATEGORIES SET  
21 FORTH IN SUBSECTION (2) OF THIS SECTION ARE NOT PROTECTIVE OF  
22 PUBLIC HEALTH; AND

23 (II) IDENTIFIES:

24 (A) A DOCUMENTED INCIDENT OF MICROBIAL DISEASE THAT THE  
25 COMMISSION DETERMINES HAS A REASONABLE POTENTIAL TO AFFECT  
26 PUBLIC HEALTH AND FOR WHICH THE COMMISSION HAS IDENTIFIED AS  
27 LIKELY ORIGINATING FROM RECLAIMED DOMESTIC WASTEWATER; OR

1 (B) A PEER-REVIEWED PUBLISHED ARTICLE THAT IDENTIFIES A  
2 POTENTIAL PUBLIC HEALTH RISK POSED BY THE USE OF RECLAIMED  
3 DOMESTIC WASTEWATER UNDER THE STANDARDS ESTABLISHED IN  
4 SUBSECTION (2) OF THIS SECTION.

5 (5) FOLLOWING A PUBLIC STAKEHOLDERS PROCESS, THE WATER  
6 QUALITY CONTROL DIVISION MAY DEVELOP POLICY, GUIDANCE, OR BEST  
7 MANAGEMENT PRACTICES THAT ARE CONSISTENT WITH THIS SECTION, AS  
8 THE DIVISION DEEMS NECESSARY TO IMPLEMENT THIS SECTION.

9 (6) IN ADDITION TO THE RELIEF AVAILABLE UNDER SECTION  
10 25-8-205 (6), THE DIVISION MAY GRANT A USER OF RECLAIMED DOMESTIC  
11 WASTEWATER A VARIANCE FROM THE WATER QUALITY STANDARDS SET  
12 FORTH IN SUBSECTION (2) OF THIS SECTION OR ESTABLISHED BY RULE BY  
13 THE COMMISSION PURSUANT TO SUBSECTION (4) OF THIS SECTION IF THE  
14 USER DEMONSTRATES TO THE DIVISION'S SATISFACTION THAT THE  
15 PROPOSED USAGE OF RECLAIMED DOMESTIC WASTEWATER WILL  
16 SUFFICIENTLY PROTECT PUBLIC HEALTH AND THE ENVIRONMENT.

17 (7) USE OF RECLAIMED DOMESTIC WASTEWATER IS ALLOWED ONLY  
18 IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE DECREES,  
19 CONTRACTS, AND WELL PERMITS APPLICABLE TO THE USE OF THE SOURCE  
20 WATER RIGHTS OR SOURCE WATER AND ANY RETURN FLOWS THEREFROM.

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

23 **25-8-308. Additional authority and duties of division -**  
24 **penalties.** (1) In addition to the authority specified elsewhere in this  
25 ~~article~~ ARTICLE 8, the division has the power to:

26 (h) Implement a program, in accordance with SECTION 25-8-205.7  
27 AND rules and orders of the commission, for the reuse of reclaimed

1 domestic wastewater for purposes other than drinking.

2 **SECTION 5. Appropriation.** For the 2018-19 state fiscal year,  
3 \$40,602 is appropriated to the department of public health and  
4 environment for use by the water quality control division. This  
5 appropriation is from the general fund and is based on an assumption that  
6 the division will require an additional 0.4 FTE. To implement this act, the  
7 division may use this appropriation for the public and private utilities  
8 sector.

9 **SECTION 6. Act subject to petition - effective date.** This act  
10 takes effect at 12:01 a.m. on the day following the expiration of the  
11 ninety-day period after final adjournment of the general assembly (August  
12 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a  
13 referendum petition is filed pursuant to section 1 (3) of article V of the  
14 state constitution against this act or an item, section, or part of this act  
15 within such period, then the act, item, section, or part will not take effect  
16 unless approved by the people at the general election to be held in  
17 November 2018 and, in such case, will take effect on the date of the  
18 official declaration of the vote thereon by the governor.