

CHAPTER 118

HEALTH

SENATE BILL 94-094

BY SENATOR Bishop;
also REPRESENTATIVES Grampas, DeGette, Dyer, Foster, Friednash, Knox, and Wright.

AN ACT

CONCERNING THE AUTHORITY OF THE DIVISION OF ADMINISTRATION OF THE DEPARTMENT OF HEALTH TO SEEK INJUNCTIONS PURSUANT TO THE "COLORADO WATER QUALITY CONTROL ACT".

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

SECTION 1. 25-8-607, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

25-8-607. Restraining orders and injunctions. (1) ~~If any person fails to comply with a cease and desist order or clean-up order that is not subject to a stay pending administrative or judicial review,~~ The division may request the district attorney for the judicial district ~~in which the alleged violation exists~~ WITH JURISDICTION PURSUANT TO SUBSECTION (2) OF THIS SECTION or the attorney general to bring, and if so requested it shall be the duty of such district attorney or the attorney general to bring, a suit for a temporary restraining order, preliminary injunction, or permanent injunction to prevent any ~~further~~ THREATENED VIOLATION OF THIS ARTICLE, OR ANY ORDER, PERMIT, OR CONTROL REGULATION ISSUED OR PROMULGATED PURSUANT TO THIS ARTICLE WHICH POSES IMMINENT AND SUBSTANTIAL ENDANGERMENT TO THE BENEFICIAL USES OF STATE WATERS AND WHICH CANNOT BE TIMELY PREVENTED BY A PERMIT MODIFICATION OR PERMIT ENFORCEMENT ACTION, or ANY continued violation of ~~such~~ THIS ARTICLE, OR ANY order, PERMIT, OR CONTROL REGULATION ISSUED OR PROMULGATED PURSUANT TO THIS ARTICLE. In any ~~such~~ suit FOR A VIOLATION OF AN ORDER, the final findings of the division, AFTER OPPORTUNITY FOR A HEARING, based upon evidence in the record, shall be prima facie evidence of the facts found in such record.

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

(2) Suits under this section shall be brought in the district or county court ~~where~~ FOR the ~~discharge~~ DISTRICT OR COUNTY IN WHICH THE VIOLATION OR THREATENED VIOLATION occurs. Emergencies shall be given precedence over all other matters pending in such court. The institution of such injunction proceeding by the division shall confer upon such court exclusive jurisdiction to determine finally the subject matter of the proceeding; except that the exclusive jurisdiction of the court shall apply only to such injunctive proceeding and shall not preclude assessment of civil penalties or any other enforcement action or sanction authorized by this article.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 14, 1994