

CHAPTER 272

WATER AND IRRIGATION

HOUSE BILL 01-1250

BY REPRESENTATIVE(S) Williams T., Hoppe, Johnson, Webster, Young, and Scott;
also SENATOR(S) Hagedorn, and Evans.

AN ACT

CONCERNING INTERFERENCE WITH THE FLOW OF WATER IN A DITCH.

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

SECTION 1. 37-89-101, Colorado Revised Statutes, is amended to read:

37-89-101. Penalty for cutting or breaking gate, bank, flume. Any person who knowingly and willfully cuts, digs, breaks down, or opens any gate, bank, embankment, or side of any ditch, canal, flume, feeder, or reservoir, or who knowingly and willfully breaks, cuts, checks, or otherwise interferes with the flow of water in any drainage ditch, box drain, or tile drain, or any manhole, or other opening in any box drain or tile drain, in which such person may be a joint owner, or which may be the property of another, or in the lawful possession of another and used for the purpose of drainage, irrigation, manufacturing, mining, or domestic purposes, with ~~malicious~~ intent to injure any person, association, or corporation, or for ~~his own~~ PERSONAL gain, unlawfully, with intent of stealing, taking, or causing to run or pour out of or into such ditch, canal, reservoir, feeder, flume, drainage ditch, box drain, or tile drain any water for ~~his own~~ PERSONAL profit, benefit, or advantage, or with intent to check or change the flow in any such ditch, canal, feeder, flume, drainage ditch, box drain, or tile drain, to the injury of any other person, association, or corporation, lawfully in the use of such water or of such ditch, canal, reservoir, feeder, flume, drainage ditch, box drain, or tile drain, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than ~~five~~ FIFTY dollars nor more than ~~three~~ SEVEN hundred FIFTY dollars or by imprisonment in the county jail for not more than ninety days. THE COURT SHALL FURTHER ORDER THAT SUCH PERSON MAKE FULL RESTITUTION TO THE VICTIM OF HIS OR HER CONDUCT FOR THE ACTUAL DAMAGES THAT WERE SUSTAINED. THE AMOUNT OF SUCH RESTITUTION SHALL BE EQUAL TO THE ACTUAL PECUNIARY DAMAGES SUSTAINED BY THE VICTIM. THE COURT SHALL FIX THE MANNER AND TIME IN WHICH SUCH RESTITUTION SHALL BE

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

MADE.

SECTION 2. 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: June 5, 2001