

CHAPTER 135

HEALTH AND ENVIRONMENT

HOUSE BILL 08-1099

BY REPRESENTATIVE(S) McNulty, Curry, Frangas, Kerr J., Labuda, Rose, Stafford, Stephens, and Todd;
also SENATOR(S) Tochtrop.

AN ACT

CONCERNING MODIFICATIONS TO ENVIRONMENTAL CONTROL PROVISIONS, AND, IN CONNECTION THEREWITH, AUTHORIZING THE WATER QUALITY CONTROL COMMISSION, INSTEAD OF THE STATE BOARD OF HEALTH, TO HEAR DRINKING WATER PENALTY APPEALS; MODIFYING THE PROCEDURES FOR WATER DISCHARGE PERMIT APPLICATIONS; AND AUTHORIZING THE SOLID AND HAZARDOUS WASTE COMMISSION, INSTEAD OF THE STATE BOARD OF HEALTH, TO ADOPT RULES REGARDING, AND SET THE BOND AMOUNT FOR, WASTE TIRE HAULERS.

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

SECTION 1. 25-1-114.1 (2.5) (b), Colorado Revised Statutes, is amended to read:

25-1-114.1. Civil remedies and penalties. (2.5) (b) Penalties under this subsection (2.5) shall be determined by the executive director or the executive director's designee and may be collected by the division OF ADMINISTRATION by an action instituted in a court of competent jurisdiction for collection of such penalty. The final decision of the executive director or the executive director's designee may be appealed to the ~~state board of health~~ WATER QUALITY CONTROL COMMISSION, CREATED PURSUANT TO SECTION 25-8-201. A stay of any order of the division ending judicial review shall not relieve any person from any liability with respect to past or continuing violations of any minimum general sanitary standard or any regulation promulgated pursuant to section 25-1.5-202 or 25-1-114 (1) (h), but the reason for the request for judicial review shall be considered in the determination of the amount of the penalty. In the event that such an action is instituted for the collection of such penalty, the court may consider the appropriateness of the amount of the penalty, if such issue is raised by the party against whom the penalty was assessed. Any administrative penalty collected under this section shall be credited to the general fund.

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

SECTION 2. 25-8-202 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

25-8-202. Duties of the commission. (1) The commission shall develop and maintain a comprehensive and effective program for prevention, control, and abatement of water pollution and for water quality protection throughout the entire state and, to ensure provision of continuously safe drinking water by public water systems, and, in connection therewith, shall:

(q) HEAR APPEALS OF PENALTIES IMPOSED PURSUANT TO SECTION 25-1-114.1 (2.5) FOR A VIOLATION OF MINIMUM GENERAL SANITARY STANDARDS AND REGULATIONS FOR DRINKING WATER.

SECTION 3. 25-8-502 (2) (c) and (3) (b), the introductory portion to 25-8-502 (5) (a) (II), and 25-8-502 (5) (a) (II) (B), Colorado Revised Statutes, are amended to read:

25-8-502. Application - definitions - fees - water quality control fund - public participation. (2) (c) ~~An applicant shall be advised not more than~~ THE DIVISION SHALL BEGIN THE REVIEW OF AN APPLICATION WITHIN forty-five days after the receipt of ~~an~~ THE application ~~by the division if, and in what respects, the~~ AND SHALL NOTIFY THE APPLICANT WITHIN NINETY DAYS AFTER RECEIPT OF THE APPLICATION WHETHER THE APPLICATION IS COMPLETE. IF THE DIVISION DETERMINES THAT AN application is incomplete, ~~Upon failure of the division to so advise the applicant, the application shall be deemed complete~~ THE DIVISION MAY REQUEST THAT THE APPLICANT SUBMIT ADDITIONAL INFORMATION. If additional information is requested by the division ~~within said forty-five day period~~ AND SUBMITTED BY THE APPLICANT, the division shall have fifteen days ~~from~~ AFTER the date the additional information is submitted to determine whether the additional information ~~which was submitted~~ satisfies the request and to advise the applicant if, and in what respects, the additional information does not satisfy the request. ~~Upon failure of the division to so advise the applicant, the application shall be deemed complete.~~ A FINAL decision that an application is not complete shall be considered final agency action upon issuance of such decision to the applicant and shall be subject to judicial review. A petition for review of such decision shall be given priority scheduling by the court.

(3) (b) THE DIVISION SHALL GIVE public notice of a complete permit application and the division's preliminary analysis ~~thereof shall be given~~ OF THE APPLICATION as provided in subsection (4) of this section. ~~Such~~ THE notice shall advise of the opportunity for interested persons to submit written comments on the permit application and the division's preliminary analysis or to request, for good cause shown, a public meeting on the application and analysis. ~~Such~~ A request FOR A PUBLIC MEETING shall be made within thirty days ~~of~~ AFTER the initial public notice of the permit application and the division's preliminary analysis. ~~thereof.~~ If a public meeting is requested and the division, in its discretion and for good cause shown, grants ~~such~~ THE request, the division shall hold ~~such~~ THE PUBLIC meeting not more than ~~sixty~~ SEVENTY-FIVE days after the initial public notice. The division shall provide notice as provided in subsection (4) of this section of the public meeting not less than ~~fifteen~~ THIRTY days prior to the date of ~~such~~ THE meeting.

(5) (a) (II) ~~In the case of each permit application,~~ The deadlines established pursuant to subparagraph (I) of this paragraph (a) FOR A DETERMINATION ON A PERMIT APPLICATION shall be extended by:

(B) ~~Thirty~~ FORTY-FIVE days, if a public meeting is held pursuant to subsection (3) of this section.

SECTION 4. 25-15-302, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

25-15-302. Solid and hazardous waste commission - creation - membership - rules - administration. (4.7) THE COMMISSION SHALL ADOPT RULES PERTAINING TO WASTE TIRE HAULERS PURSUANT TO SECTION 25-17-204.

SECTION 5. The introductory portion to 25-17-204 (3) and 25-17-204 (3) (a) (III), Colorado Revised Statutes, are amended to read:

25-17-204. Waste tire haulers - registration - rules - violations. (3) The ~~state board of health~~ SOLID AND HAZARDOUS WASTE COMMISSION shall promulgate rules to implement this section, including:

(a) Requirements that persons who transport waste tires for storage or disposal:

(III) Post a bond in a form and an amount set by the ~~state board of health~~ SOLID AND HAZARDOUS WASTE COMMISSION, not to exceed ten thousand dollars.

SECTION 6. 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, (August 6, 2008, if adjournment sine die is on May 7, 2008); 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: April 14, 2008