

CHAPTER 263

LABOR AND INDUSTRY

SENATE BILL 08-051

BY SENATOR(S) Taylor, Isgar, and Takis;
 also REPRESENTATIVE(S) Marshall, Kerr J., Mitchell V., Primavera, Borodkin, Labuda, Looper, Madden, Middleton, and Rose.

AN ACT

CONCERNING A GRANT OF ADDITIONAL ENFORCEMENT AUTHORITY TO THE DIRECTOR OF THE DIVISION OF OIL AND PUBLIC SAFETY, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. 8-1-151, Colorado Revised Statutes, is amended to read:

8-1-151. Public safety inspection fund created. There is hereby created in the state treasury a fund to be known as the public safety inspection fund, which shall consist of moneys credited thereto pursuant to ~~section 8-20-101 (3) and sections 9-7-108.5 and 22-32-124 (2)~~ SECTIONS 8-20-101 (3), 8-20-104, 9-7-108.5, AND 22-32-124 (2), C.R.S. All moneys in the public safety inspection fund shall be subject to annual appropriation by the general assembly for the public safety inspection activities of the division of oil and public safety. The moneys in the public safety inspection fund shall not be credited or transferred to the general fund or any other fund of the state.

SECTION 2. 8-20-104 (1), (2) (a), and (4), Colorado Revised Statutes, are amended, and the said 8-20-104 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

8-20-104. Enforcement of law - penalties - definitions. (1) The director shall enforce ~~the provisions of this article, and~~ sections 22-32-124 and 23-71-122, C.R.S., ARTICLES 4, 5.5, AND 7 OF TITLE 9, C.R.S., AND RULES PROMULGATED PURSUANT TO ARTICLES 4, 5.5, AND 7 OF TITLE 9, C.R.S., by appropriate actions in courts of competent jurisdiction.

(2) (a) The director may issue a notice of violation to a person who is believed

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

to have violated this article, section 22-32-124 or 23-71-122, C.R.S., ARTICLE 4, 5.5, OR 7 OF TITLE 9, C.R.S., OR rules promulgated pursuant to this article ~~article 5.5 of title 9, C.R.S., or rules promulgated pursuant to article 5.5 of title 9, C.R.S.~~ OR ARTICLE 4, 5.5, OR 7 OF TITLE 9, C.R.S. The notice shall be delivered to the alleged violator personally, by certified mail, return receipt requested, or by any means that verifies receipt as reliably as certified mail, return receipt requested.

(4) (a) An enforcement order issued pursuant to this section may impose a civil penalty, depending on the severity of the alleged violation, not to exceed five hundred dollars per violation for each day of violation; except that the director may impose a civil penalty not to exceed one thousand dollars per violation for each day of violation that results in, or may reasonably be expected to result in, serious bodily injury.

(b) A CIVIL PENALTY COLLECTED FOR A VIOLATION OF:

(I) ARTICLE 4 OF TITLE 9, C.R.S., OR A RULE PROMULGATED PURSUANT TO SUCH ARTICLE, SHALL BE DEPOSITED IN THE BOILER INSPECTION FUND CREATED IN SECTION 9-4-109, C.R.S.;

(II) ARTICLE 5.5 OF TITLE 9, C.R.S., OR A RULE PROMULGATED PURSUANT TO SUCH ARTICLE, SHALL BE DEPOSITED IN THE CONVEYANCE SAFETY FUND CREATED IN SECTION 9-5.5-111, C.R.S.;

(III) SECTION 22-32-124 OR 23-71-122, C.R.S., OR OF ARTICLE 7 OF TITLE 9, C.R.S., OR A RULE PROMULGATED PURSUANT TO SUCH SECTIONS OR ARTICLE, SHALL BE DEPOSITED IN THE PUBLIC SAFETY INSPECTION FUND CREATED IN SECTION 8-1-151.

(7) IN ADDITION TO THE REMEDIES PROVIDED IN THIS SECTION, THE DIRECTOR IS AUTHORIZED TO APPLY TO THE DISTRICT COURT, IN THE JUDICIAL DISTRICT WHERE THE VIOLATION HAS OCCURRED, FOR A TEMPORARY OR PERMANENT INJUNCTION RESTRAINING ANY PERSON FROM VIOLATING ANY PROVISION OF SECTIONS 22-32-124 AND 23-71-122, C.R.S., ARTICLES 4, 5.5, AND 7 OF TITLE 9, C.R.S., AND RULES PROMULGATED PURSUANT TO ARTICLES 4, 5.5, AND 7 OF TITLE 9, C.R.S., REGARDLESS OF WHETHER THERE IS AN ADEQUATE REMEDY AT LAW.

SECTION 3. 9-4-109 (1) (a) (I), Colorado Revised Statutes, is amended to read:

9-4-109. Fees for boiler and pressure vessel inspection certificates.

(1) (a) (I) There shall be paid for the issuance of a certificate of boiler or pressure vessel inspection of each individual boiler or pressure vessel, regardless of how it is joined or connected, according to ~~the provisions of~~ this article by the owner or user of said boiler or pressure vessel, such fees as shall be established by the director of the division of oil and public safety by rule; except that such fees shall not exceed the amount necessary to accumulate and maintain in the boiler inspection fund a reserve sufficient to defray the division's administrative expenses for a period of two months, and in no event shall the basic fee for an annual inspection exceed one hundred fifty dollars for an internal inspection ~~nor~~ OR eighty-five dollars for an external inspection. The basic fee for a biennial or triennial inspection shall not exceed eighty-five dollars. The division shall not charge for an inspection other

than to assess the fees established pursuant to this subsection (1). Any fees established pursuant to subparagraphs (III) to (V) of this paragraph (a) or pursuant to paragraph (b) of this subsection (1) shall be in addition to the basic fee.

SECTION 4. 9-7-104, Colorado Revised Statutes, is amended to read:

9-7-104. Enforcement. (1) The division shall enforce ~~the provisions of~~ this article and for such purposes shall:

(a) Issue permits to applicants found by the division, after inspection and investigation, to be qualified for such permit under ~~the provisions of~~ this article and the rules ~~and regulations~~ of the division;

(b) Deny, suspend, or revoke permits upon a finding of noncompliance or violation of ~~the provisions of~~ this article or of the applicable rules; ~~and regulations;~~

(c) Hold hearings upon the application of any person aggrieved by any order of the division with respect to the denial, suspension, or revocation of any permit;

(d) Inspect, during normal business hours, any building, structure, or premises subject to ~~the provisions of~~ this article, and, upon the discovery of any violation of this article or the applicable rules, ~~and regulations;~~ issue such orders as are necessary for the safety of workers and the public, and, in the case of imminent hazard, apply for an injunction in the appropriate district court.

(2) THE DIVISION MAY INSPECT BLAST SITES OR REQUEST A BLAST DEMONSTRATION IN A CONTROLLED ENVIRONMENT PURSUANT TO RULES PROMULGATED BY THE DIRECTOR OF THE DIVISION.

SECTION 5. 9-7-107, Colorado Revised Statutes, is amended to read:

9-7-107. Fees. An application for initial issuance or renewal of a thirty-six-month permit under this article shall be accompanied by a fee ~~of seventy-five dollars~~ AS ESTABLISHED BY THE DIRECTOR OF THE DIVISION; except that the director of the division by rule or as otherwise provided by law may reduce the amount of the fee if necessary pursuant to section 24-75-402 (3), C.R.S., to reduce the uncommitted reserves of the fund to which all or any portion of the fee is credited. After the uncommitted reserves of the fund are sufficiently reduced, the director of the division by rule or as otherwise provided by law may increase the amount of the fee as provided in section 24-75-402 (4), C.R.S.

SECTION 6. Appropriation. In addition to any other appropriation, there is hereby appropriated, to the department of labor, for allocation to the division of oil and public safety, for the fiscal year beginning July 1, 2008, the sum of one hundred twenty-three thousand nine hundred fifty dollars (\$123,950) and 2.0 FTE, or so much thereof as may be necessary, for the implementation of this act. Of said sum, eighty-four thousand eight hundred twenty-five dollars (\$84,825) shall be cash funds from the public safety inspection fund created in section 8-1-151, Colorado Revised Statutes, and thirty-nine thousand one hundred twenty-five dollars (\$39,125) shall be cash funds from the boiler inspection fund created in section 9-4-109 (4), Colorado Revised Statutes.

SECTION 7. 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: May 21, 2008