

CHAPTER 264

GOVERNMENT - STATE

HOUSE BILL 12-1119

BY REPRESENTATIVE(S) Coram, Becker, Beezley, Bradford, Brown, DelGrosso, Ferrandino, Gerou, Holbert, Kerr J., Labuda, Lee, Liston, Looper, Massey, Priola, Ramirez, Scott, Sonnenberg, Stephens, Swalm, Swerdfeger, McNulty;
also SENATOR(S) Giron and King S.

AN ACT

CONCERNING VIOLATIONS OF STATE REQUIREMENTS ENFORCED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT THAT PERTAIN TO CONSTRUCTION-RELATED DISCHARGES OF STORM WATER.

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

SECTION 1. In Colorado Revised Statutes, 25-8-608, **amend** (1) introductory portion; and **add** (3) as follows:

25-8-608. Civil penalties - rules - fund created - temporary moratorium on penalties for minor violations - definitions - repeal. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS SECTION, any person who violates any provision of this article or of any permit issued under this article, or any control regulation promulgated pursuant to this article, or any final cease-and-desist order or clean-up order shall be subject to a civil penalty of not more than ten thousand dollars per day for each day during which such violation occurs. In determining the amount of a penalty under this part 6, the following factors shall be considered:

(3) (a) AS USED IN THIS SUBSECTION (3):

(I) "INSPECTION-RELATED VIOLATION" MEANS A CIVIL VIOLATION OF A PROVISION OF THIS ARTICLE OR OF A PERMIT ISSUED UNDER THIS ARTICLE THAT GOVERNS STORM WATER DISCHARGES OCCURRING IN CONNECTION WITH CONSTRUCTION ACTIVITIES AND THAT THE DIVISION OR ITS AGENT DISCOVERS THROUGH AN INSPECTION OF THE FACILITIES OR OF WORK PERFORMED BY THE VIOLATOR.

(II) "MINOR VIOLATION" MEANS A VIOLATION THAT DOES NOT HARM OR THREATEN PUBLIC HEALTH OR SAFETY OR THE ENVIRONMENT AND THAT IS EITHER

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

AN INSPECTION-RELATED VIOLATION OR A PAPERWORK VIOLATION.

(III) "PAPERWORK VIOLATION" MEANS A CIVIL VIOLATION OF A PROVISION OF THIS ARTICLE OR OF A PERMIT ISSUED UNDER THIS ARTICLE THAT GOVERNS STORM WATER DISCHARGES OCCURRING IN CONNECTION WITH CONSTRUCTION ACTIVITIES AND THAT:

(A) INVOLVES THE FAILURE OF THE VIOLATOR TO MEET A FILING DEADLINE OR OTHER DEADLINE; OR

(B) IS A NONSUBSTANTIVE TECHNICAL ERROR OR, AS DETERMINED BY THE DIVISION, A SUBSTANTIVE ERROR REASONABLY MADE BY THE VIOLATOR IN GOOD FAITH, ON A REQUIRED FORM OR FILING.

(b) THE DIVISION SHALL NOT COMMENCE ANY ENFORCEMENT ACTION AGAINST A VIOLATOR FOR A MINOR VIOLATION COMMITTED ON OR AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (b) UNLESS THE DIVISION NOTIFIES THE VIOLATOR OF THE VIOLATION AND THE VIOLATOR FAILS TO CURE THE VIOLATION WITHIN A REASONABLE TIME AS DETERMINED BY THE DIVISION. IN THE CASE OF A VIOLATOR FAILING TO CURE THE VIOLATION WITHIN A REASONABLE TIME AS DETERMINED BY THE DIVISION, THE DIVISION MAY ASSESS A FINANCIAL PENALTY OF UP TO TWO TIMES THE AMOUNT AUTHORIZED IN SUBSECTION (1) OF THIS SECTION.

(c) COMMENCING AS SOON AS FEASIBLE AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (c), THE DIVISION SHALL COLLABORATE WITH THE CONSTRUCTION INDUSTRY AND OTHER INTERESTED PERSONS TO DEVELOP MORE RESPONSIVE AND STREAMLINED PROCESSES FOR PREVENTING VIOLATIONS OF PROVISIONS OF THIS ARTICLE AND OF PERMITS ISSUED UNDER THIS ARTICLE AND FOR ENFORCING SUCH PROVISIONS WHEN VIOLATIONS OCCUR. NO LATER THAN DECEMBER 1, 2012, THE DIVISION SHALL SUBMIT TO THE GENERAL ASSEMBLY A WRITTEN REPORT THAT INCLUDES THE RESULTS OF THE COLLABORATION, THE ACTIONS IT PLANS TO TAKE TO DEVELOP MORE STREAMLINED AND RESPONSIVE PROCESSES, AND ANY LEGISLATIVE RECOMMENDATIONS THAT IT MAY HAVE.

(d) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE JULY 1, 2013.

SECTION 2. No appropriation. The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

SECTION 3. 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: June 6, 2012