

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0378.01 Jason Gelender x4330

HOUSE BILL 12-1119

HOUSE SPONSORSHIP

Coram,

SENATE SPONSORSHIP

Giron and King S.,

House Committees

Economic and Business Development
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING LIMITATIONS ON THE IMPOSITION OF FINES BY THE**
102 **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FOR**
103 **MINOR VIOLATIONS, AND, IN CONNECTION THEREWITH,**
104 **DEFINING A MINOR VIOLATION AS AN INSPECTION-RELATED OR**
105 **PAPERWORK VIOLATION OF STATE LAW OR STATE AGENCY RULE**
106 **THAT DOES NOT HARM OR THREATEN PUBLIC HEALTH OR**
107 **SAFETY AND REQUIRING A STATE AGENCY TO PROVIDE A**
108 **VIOLATOR WITH NOTICE AND AN OPPORTUNITY TO CURE A**
109 **MINOR VIOLATION BEFORE IMPOSING A FINE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill limits the discretion of a state executive branch agency to impose a fine for a minor violation of a state law or a state agency rule by prohibiting an agency from:

- ! Imposing a fine for a minor violation that is an inspection-related violation if the violator made a reasonable good faith effort to comply with the state law or state agency rule that it violated unless:
 - ! The state agency provides written notice of the violation to the violator within 20 business days of the date of the inspection; and
 - ! The violator fails to remedy the violation within 20 business days of receiving the notice.
- ! Imposing a fine for a minor violation that is a paperwork violation unless:
 - ! The state agency provides written notice of the violation to the violator within 90 business days after the violator committed the violation by missing a filing deadline or filing an erroneous form or other filing; and
 - ! The violator fails to remedy the violation within 90 business days of receiving the notice of the violation.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 1.7 to title
3 25 as follows:

4 **ARTICLE 1.7**

5 **Fines Imposed by the Department of**

6 **Public Health and Environment - Limitations**

7 **25-1.7-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY
8 BE CITED AS THE "STOPPING UNNECESSARY COSTS AND CREATING AND
9 ENSURING STABILITY FOR SMALL BUSINESS ACT" OR THE "SUCCESS ACT".

10 **25-1.7-102. Fines levied by department of public health and**

1 **environment - limitations.** (1) AS USED IN THIS ARTICLE, UNLESS THE
2 CONTEXT OTHERWISE REQUIRES:

3 (a) "BUSINESS DAY" MEANS ANY CALENDAR DAY EXCLUDING
4 SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS.

5 (b) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH
6 AND ENVIRONMENT AND ANY BOARD, BUREAU, COMMISSION, INSTITUTION,
7 DIVISION, SECTION, OR OFFICER LOCATED WITHIN OR EMPLOYED BY THE
8 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

9 (c) "FINE" MEANS A PENALTY LEVIED BY THE DEPARTMENT AS
10 AUTHORIZED BY LAW AGAINST ANY NATURAL PERSON OR BUSINESS ENTITY
11 REGULATED BY THE DEPARTMENT FOR A VIOLATION OF A STATE LAW OR
12 A DEPARTMENT RULE. "FINE" DOES NOT INCLUDE:

13 (I) A LATE FEE IMPOSED FOR FAILURE TO PERFORM AN ACTION,
14 SUBMIT A PAYMENT, OR FILE A DOCUMENT AS REQUIRED BY STATE LAW OR
15 A DEPARTMENT RULE; OR

16 (II) THE RECOVERY OF ALL OR A PORTION OF A PAYMENT MADE BY
17 THE DEPARTMENT IN ERROR OR IN EXCESS OF THE AMOUNT TO WHICH THE
18 RECIPIENT IS ENTITLED.

19 (d) "INSPECTION-RELATED VIOLATION" MEANS A VIOLATION OF
20 STATE LAW OR A DEPARTMENT RULE, EXCLUDING WATER RIGHTS
21 ADMINISTRATION AND EXCLUDING A VIOLATION RELATED TO THE MINING,
22 EXTRACTION, OR PROCESSING OF MINERAL RESOURCES, THAT THE
23 DEPARTMENT OR ITS AGENT DISCOVERS THROUGH AN INSPECTION OF THE
24 FACILITIES OF OR WORK PERFORMED BY THE VIOLATOR.

25 (e) "MINOR VIOLATION" MEANS A VIOLATION THAT HAS NOT
26 HARMED OR THREATENED PUBLIC HEALTH OR SAFETY OR THE
27 ENVIRONMENT AND THAT IS EITHER AN INSPECTION-RELATED VIOLATION

1 OR A PAPERWORK VIOLATION.

2 (f) "PAPERWORK VIOLATION" MEANS A VIOLATION OF STATE LAW
3 OR A DEPARTMENT RULE THAT IS A NONSUBSTANTIVE TECHNICAL ERROR
4 OR, AS DETERMINED BY THE DEPARTMENT, A SUBSTANTIVE ERROR
5 REASONABLY MADE BY THE VIOLATOR IN GOOD FAITH, ON A REQUIRED
6 FORM OR FILING.

7 (2) THE DEPARTMENT SHALL NOT IMPOSE A FINE FOR A MINOR
8 VIOLATION THAT IS AN INSPECTION-RELATED VIOLATION IF THE VIOLATION
9 IS THE FIRST SUCH VIOLATION FOUND IN CONNECTION WITH THE SPECIFIC
10 FACILITY, PROJECT, OR WORK ACTIVITY BEING INSPECTED AND IF, AS
11 DETERMINED BY THE DEPARTMENT, THE VIOLATOR MADE A REASONABLE
12 GOOD FAITH EFFORT TO COMPLY WITH THE STATE LAW OR DEPARTMENT
13 RULE THAT IT VIOLATED UNLESS:

14 (a) THE DEPARTMENT PROVIDES WRITTEN NOTICE OF THE
15 VIOLATION TO THE VIOLATOR WITHIN TWENTY BUSINESS DAYS OF THE
16 DATE OF THE INSPECTION; AND

17 (b) THE VIOLATOR FAILS TO CURE THE VIOLATION WITHIN TWENTY
18 BUSINESS DAYS OF RECEIVING THE NOTICE OF THE VIOLATION.

19 (3) THE DEPARTMENT SHALL NOT IMPOSE A FINE FOR A MINOR
20 VIOLATION THAT IS A PAPERWORK VIOLATION IF THE VIOLATION IS THE
21 FIRST SUCH VIOLATION FOUND IN CONNECTION WITH THE REQUIRED FORMS
22 OR FILINGS RELATED TO A SPECIFIC FACILITY, PROJECT, OR WORK
23 ACTIVITY, UNLESS:

24 (a) THE DEPARTMENT PROVIDES WRITTEN NOTICE OF THE
25 VIOLATION TO THE VIOLATOR WITHIN NINETY BUSINESS DAYS AFTER THE
26 VIOLATOR COMMITTED THE VIOLATION BY FILING AN ERRONEOUS FORM OR
27 OTHER FILING; AND

1 (b) THE VIOLATOR FAILS TO CURE THE VIOLATION WITHIN NINETY
2 BUSINESS DAYS OF RECEIVING THE NOTICE OF THE VIOLATION.

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

7 **SECTION 3. Safety clause.** The general assembly hereby finds,
8 determines, and declares that this act is necessary for the immediate
9 preservation of the public peace, health, and safety.