

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

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

Senate Committees

A BILL FOR AN ACT

101 CONCERNING LIMITATIONS ON THE IMPOSITION OF FINES BY STATE
102 AGENCIES FOR MINOR VIOLATIONS, AND, IN CONNECTION
103 THEREWITH, DEFINING A MINOR VIOLATION AS AN
104 INSPECTION-RELATED OR PAPERWORK VIOLATION OF STATE
105 LAW OR STATE AGENCY RULE THAT DOES NOT HARM OR
106 THREATEN PUBLIC HEALTH OR SAFETY AND REQUIRING A STATE
107 AGENCY TO PROVIDE A VIOLATOR WITH NOTICE AND AN
108 OPPORTUNITY TO CURE A MINOR VIOLATION BEFORE IMPOSING
109 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 4.3 to title
3 24 as follows:

4 **ARTICLE 4.3**

5 **Fines Imposed By State Agencies - Limitations**

6 **24-4.3-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY
7 BE CITED AS THE "STOPPING UNNECESSARY COSTS AND CREATING AND
8 ENSURING STABILITY FOR SMALL BUSINESS ACT" OR THE "SUCCESS ACT".

9 **24-4.3-102. Fines levied by state agencies - limitations -**
10 **definitions.** (1) AS USED IN THIS ARTICLE, UNLESS THE CONTEXT

1 OTHERWISE REQUIRES:

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

4 (b) "FINE" MEANS A PENALTY LEVIED BY A STATE AGENCY AS
5 AUTHORIZED BY LAW AGAINST ANY NATURAL PERSON OR BUSINESS ENTITY
6 REGULATED BY THE STATE AGENCY FOR A VIOLATION OF A STATE LAW OR
7 A STATE AGENCY RULE.

8 (c) "INSPECTION-RELATED VIOLATION" MEANS A VIOLATION OF
9 STATE LAW OR A STATE AGENCY RULE THAT A STATE AGENCY OR ITS
10 AGENT DISCOVERS THROUGH AN INSPECTION OF THE FACILITIES OF OR
11 WORK PERFORMED BY THE VIOLATOR.

12 (d) "MINOR VIOLATION" MEANS A VIOLATION THAT DOES NOT
13 HARM OR THREATEN PUBLIC HEALTH OR SAFETY AND THAT IS EITHER AN
14 INSPECTION-RELATED VIOLATION OR A PAPERWORK VIOLATION.

15 (e) "PAPERWORK VIOLATION" MEANS A VIOLATION OF STATE LAW
16 OR A STATE AGENCY RULE THAT:

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

19 (II) IS A NONSUBSTANTIVE TECHNICAL ERROR OR, AS DETERMINED
20 BY A STATE AGENCY, A SUBSTANTIVE ERROR REASONABLY MADE BY THE
21 VIOLATOR IN GOOD FAITH, ON A REQUIRED FORM OR FILING;

22 (f) "STATE AGENCY" MEANS AN AGENCY AS DEFINED IN SECTION
23 24-4-102 (3).

24 (2) A STATE AGENCY SHALL NOT IMPOSE A FINE FOR A MINOR
25 VIOLATION THAT IS AN INSPECTION-RELATED VIOLATION IF, AS
26 DETERMINED BY THE STATE AGENCY, THE VIOLATOR MADE A REASONABLE
27 GOOD FAITH EFFORT TO COMPLY WITH THE STATE LAW OR STATE AGENCY

1 RULE THAT IT VIOLATED UNLESS:

2 (a) THE STATE AGENCY PROVIDES WRITTEN NOTICE OF THE
3 VIOLATION TO THE VIOLATOR WITHIN TWENTY BUSINESS DAYS OF THE
4 DATE OF THE INSPECTION; AND

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

7 (3) A STATE AGENCY SHALL NOT IMPOSE A FINE FOR A MINOR
8 VIOLATION THAT IS A PAPERWORK VIOLATION UNLESS:

9 (a) THE STATE AGENCY PROVIDES WRITTEN NOTICE OF THE
10 VIOLATION TO THE VIOLATOR WITHIN NINETY BUSINESS DAYS AFTER THE
11 VIOLATOR COMMITTED THE VIOLATION BY MISSING A FILING DEADLINE OR
12 FILING AN ERRONEOUS FORM OR OTHER FILING; AND

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

15 **SECTION 2. Safety clause.** The general assembly hereby finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, and safety.