

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

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

Health and Human Services
Finance

A BILL FOR AN ACT

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

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 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

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.*

SENATE
3rd Reading Unam ended
May 9, 2012

SENATE
2nd Reading Unam ended
May 8, 2012

HOUSE
3rd Reading Unam ended
May 3, 2012

HOUSE
Am ended 2nd Reading
May 2, 2012

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, 25-8-608, **amend** (1)
3 introductory portion; and **add** (3) as follows:

4 **25-8-608. Civil penalties - rules - fund created - temporary**
5 **moratorium on penalties for minor violations - definitions - repeal.**

6 (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS SECTION,
7 any person who violates any provision of this article or of any permit
8 issued under this article, or any control regulation promulgated pursuant
9 to this article, or any final cease-and-desist order or clean-up order shall
10 be subject to a civil penalty of not more than ten thousand dollars per day
11 for each day during which such violation occurs. In determining the
12 amount of a penalty under this part 6, the following factors shall be
13 considered:

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

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

7 (II) "MINOR VIOLATION" MEANS A VIOLATION THAT DOES NOT
8 HARM OR THREATEN PUBLIC HEALTH OR SAFETY OR THE ENVIRONMENT
9 AND THAT IS EITHER AN INSPECTION-RELATED VIOLATION OR A
10 PAPERWORK VIOLATION.

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

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

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

20 (b) THE DIVISION SHALL NOT COMMENCE ANY ENFORCEMENT
21 ACTION AGAINST A VIOLATOR FOR A MINOR VIOLATION COMMITTED ON OR
22 AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (b) UNLESS THE DIVISION
23 NOTIFIES THE VIOLATOR OF THE VIOLATION AND THE VIOLATOR FAILS TO
24 CURE THE VIOLATION WITHIN A REASONABLE TIME AS DETERMINED BY THE
25 DIVISION. IN THE CASE OF A VIOLATOR FAILING TO CURE THE VIOLATION
26 WITHIN A REASONABLE TIME AS DETERMINED BY THE DIVISION, THE
27 DIVISION MAY ASSESS A FINANCIAL PENALTY OF UP TO TWO TIMES THE

1 AMOUNT AUTHORIZED IN SUBSECTION (1) OF THIS SECTION.

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

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

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

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