

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**

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**HOUSE SPONSORSHIP**

**Coram,**

**SENATE SPONSORSHIP**

**Giron and King S.,**

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**House Committees**

Economic and Business Development  
Finance

**Senate Committees**

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**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.**

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**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.

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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, AS  
9 DETERMINED BY THE DEPARTMENT, THE VIOLATOR MADE A REASONABLE  
10 GOOD FAITH EFFORT TO COMPLY WITH THE STATE LAW OR DEPARTMENT  
11 RULE THAT IT VIOLATED UNLESS:

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

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

17 (3) THE DEPARTMENT SHALL NOT IMPOSE A FINE FOR A MINOR  
18 VIOLATION THAT IS A PAPERWORK VIOLATION UNLESS:

19 (a) THE DEPARTMENT PROVIDES WRITTEN NOTICE OF THE  
20 VIOLATION TO THE VIOLATOR WITHIN NINETY BUSINESS DAYS AFTER THE  
21 VIOLATOR COMMITTED THE VIOLATION BY FILING AN ERRONEOUS FORM OR  
22 OTHER FILING; AND

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

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