

HOUSE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

March 8, 2012  
Date

Committee on Economic and Business Development.

After consideration on the merits, the Committee recommends the following:

HB12-1119 be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

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

5 **ARTICLE 1.7**  
6 **Fines Imposed by the Department of**  
7 **Public Health and Environment - Limitations**

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

11 **25-1.7-102. Fines levied by department of public health and**  
12 **environment - limitations.** (1) AS USED IN THIS ARTICLE, UNLESS THE  
13 CONTEXT OTHERWISE REQUIRES:

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

16 (b) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH  
17 AND ENVIRONMENT AND ANY BOARD, BUREAU, COMMISSION, INSTITUTION,  
18 DIVISION, SECTION, OR OFFICER LOCATED WITHIN OR EMPLOYED BY THE  
19 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

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

24 (I) A LATE FEE IMPOSED FOR FAILURE TO PERFORM AN ACTION,

1 SUBMIT A PAYMENT, OR FILE A DOCUMENT AS REQUIRED BY STATE LAW OR  
2 A DEPARTMENT RULE; OR

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

6 (d) "INSPECTION-RELATED VIOLATION" MEANS A VIOLATION OF  
7 STATE LAW OR A DEPARTMENT RULE, EXCLUDING WATER RIGHTS  
8 ADMINISTRATION AND EXCLUDING A VIOLATION RELATED TO THE MINING,  
9 EXTRACTION, OR PROCESSING OF MINERAL RESOURCES, THAT THE  
10 DEPARTMENT OR ITS AGENT DISCOVERS THROUGH AN INSPECTION OF THE  
11 FACILITIES OF OR WORK PERFORMED BY THE VIOLATOR.

12 (e) "MINOR VIOLATION" MEANS A VIOLATION THAT HAS NOT  
13 HARMED OR THREATENED PUBLIC HEALTH OR SAFETY OR THE  
14 ENVIRONMENT AND THAT IS EITHER AN INSPECTION-RELATED VIOLATION  
15 OR A PAPERWORK VIOLATION.

16 (f) "PAPERWORK VIOLATION" MEANS A VIOLATION OF STATE LAW  
17 OR A DEPARTMENT RULE THAT IS A NONSUBSTANTIVE TECHNICAL ERROR  
18 OR, AS DETERMINED BY THE DEPARTMENT, A SUBSTANTIVE ERROR  
19 REASONABLY MADE BY THE VIOLATOR IN GOOD FAITH, ON A REQUIRED  
20 FORM OR FILING.

21 (2) THE DEPARTMENT SHALL NOT IMPOSE A FINE FOR A MINOR  
22 VIOLATION THAT IS AN INSPECTION-RELATED VIOLATION IF, AS  
23 DETERMINED BY THE DEPARTMENT, THE VIOLATOR MADE A REASONABLE  
24 GOOD FAITH EFFORT TO COMPLY WITH THE STATE LAW OR DEPARTMENT  
25 RULE THAT IT VIOLATED UNLESS:

26 (a) THE DEPARTMENT PROVIDES WRITTEN NOTICE OF THE  
27 VIOLATION TO THE VIOLATOR WITHIN TWENTY BUSINESS DAYS OF THE  
28 DATE OF THE INSPECTION; AND

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

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

33 (a) THE DEPARTMENT PROVIDES WRITTEN NOTICE OF THE  
34 VIOLATION TO THE VIOLATOR WITHIN NINETY BUSINESS DAYS AFTER THE  
35 VIOLATOR COMMITTED THE VIOLATION BY FILING AN ERRONEOUS FORM OR  
36 OTHER FILING; AND

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

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

- 1 Page 1, line 101, strike "STATE".
- 2 Page 1, line 102, strike "AGENCIES" and substitute "**THE DEPARTMENT OF**
- 3 **PUBLIC HEALTH AND ENVIRONMENT**".

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