

**Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 26-0594.01 Sarah Lozano x3858

HOUSE BILL 26-1121

HOUSE SPONSORSHIP

Marshall and Garcia,

SENATE SPONSORSHIP

Cutter and Kipp,

House Committees
Energy & Environment

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING REQUIRING PUBLIC ACCESSIBILITY OF STATIONARY**
102 **SOURCE EMISSIONS RECORDS.**

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://leg.colorado.gov>.)

Beginning January 1, 2028, the bill requires a person that owns, leases, operates, controls, or supervises a building, structure, facility, or installation that emits or may emit an air pollutant (owner or operator) to make all emissions records that the owner or operator is required by state or federal law to maintain (records) publicly available and accessible on the owner or operator's public website. Except in certain circumstances,

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

the owner or operator is required to update the records following the same schedule as the records are made available to the state or the United States. These requirements apply only to records that are generated on or after December 1, 2027.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Congress enacted the "Clean Air Act" in 1963 when electronic
5 and digital business records were nonexistent;

6 (b) Colorado continues to suffer from high levels of air pollution
7 and, in the summer of 2024, exceeded the United States environmental
8 protection agency's ozone limits for 40 days;

9 (c) In May of 2023, the United States environmental protection
10 agency issued a limited disapproval of Colorado's state implementation
11 plan after finding that Colorado's practice of providing emissions records
12 to the state only on request did not sufficiently allow practical public
13 access to information necessary to determine compliance with the "Clean
14 Air Act";

15 (d) In July of 2023, Colorado's attorney general filed a petition
16 with the United States court of appeals for the tenth circuit for review of
17 the United States environmental protection agency's disapproval;

18 (e) The case settled, and the new presidential administration
19 rescinded the rule allowing Colorado to continue the current practice of
20 making air pollution records available to the state upon request, but not
21 making the records accessible to the public;

22 (f) Air pollution emissions travel from a polluter's private property
23 into the air of other private property owners and into public spaces;

1 (g) People have a right to know what pollutants and discharges are
2 emitted into the air they breathe and onto the property they own;

3 (h) Pollution records are now kept in easily accessible electronic
4 and digital formats that were unanticipated when congress enacted the
5 "Clean Air Act";

6 (i) The cost of electronic database storage for records is nominal,
7 ranging from one cent to 20 cents per gigabyte; and

8 (j) It is in the public interest and supports the health and welfare
9 of Colorado residents to require that pollution records be both available
10 to the state for inspection and accessible to the public.

11 **SECTION 2.** In Colorado Revised Statutes, **add** 25-7-109.7 as
12 follows:

13 **25-7-109.7. Emissions records - public accessibility - civil**
14 **penalties - definition.**

15 (1) **Definition.** AS USED IN THIS SECTION, UNLESS THE CONTEXT
16 OTHERWISE REQUIRES, "CONFIDENTIAL BUSINESS INFORMATION" MEANS
17 INFORMATION THAT AN OWNER OR OPERATOR IS PERMITTED TO REDACT
18 UNDER APPLICABLE STATE OR FEDERAL LAW.

19 (2) **Public accessibility of emissions records.**

20 (a) BEGINNING JANUARY 1, 2028, AN OWNER OR OPERATOR SHALL
21 MAKE ALL EMISSIONS RECORDS THAT THE OWNER OR OPERATOR IS
22 REQUIRED BY STATE OR FEDERAL LAW TO MAINTAIN PUBLICLY AVAILABLE
23 AND ACCESSIBLE THROUGH A LINK ON THE OWNER OR OPERATOR'S PUBLIC
24 WEBSITE. THE OWNER OR OPERATOR SHALL MAINTAIN THE RECORDS IN A
25 DIGITAL FORMAT THAT IS DOWNLOADABLE.

26 (b) AN OWNER OR OPERATOR SHALL UPDATE THE RECORDS
27 MAINTAINED ON THE OWNER OR OPERATOR'S PUBLIC WEBSITE PURSUANT

1 TO SUBSECTION (2)(a) OF THIS SECTION FOLLOWING THE SAME SCHEDULE
2 AS THE RECORDS ARE MADE AVAILABLE TO THE STATE OR THE UNITED
3 STATES; EXCEPT THAT ANY RECORDS PROVIDED TO THE STATE OR THE
4 UNITED STATES MORE OFTEN THAN MONTHLY MAY BE UPLOADED TO THE
5 OWNER OR OPERATOR'S PUBLIC WEBSITE ON A MONTHLY BASIS. FOR
6 RECORDS THAT ARE PROVIDED TO THE STATE OR THE UNITED STATES ON
7 A QUARTERLY BASIS OR LESS OFTEN, THE OWNER OR OPERATOR SHALL
8 UPDATE SUCH RECORDS ON THE OWNER OR OPERATOR'S PUBLIC WEBSITE
9 ON OR BEFORE THE FIRST DAY OF THE MONTH FOLLOWING WHEN THE
10 RECORDS ARE MADE AVAILABLE TO THE STATE OR THE UNITED STATES.

11 (c) THE RECORDS MAINTAINED ON THE OWNER OR OPERATOR'S
12 PUBLIC WEBSITE PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION MAY
13 BE REDACTED TO PROTECT CONFIDENTIAL BUSINESS INFORMATION.

14 (d) (I) THIS SECTION APPLIES TO RECORDS THAT ARE GENERATED
15 ON OR AFTER DECEMBER 1, 2027.

16 (II) NOTHING IN THIS SECTION REQUIRES AN OWNER OR OPERATOR
17 TO INCLUDE RECORDS THAT WERE GENERATED BEFORE DECEMBER 1,
18 2027, ON THE OWNER OR OPERATOR'S PUBLIC WEBSITE.

19 (3) **Civil penalties.** CIVIL PENALTIES ASSESSED AND COLLECTED
20 FOR VIOLATIONS OF THIS SECTION PURSUANT TO SECTION 25-7-122 SHALL
21 BE CREDITED IN ACCORDANCE WITH SECTION 25-7-129 (2).

22 **SECTION 3.** In Colorado Revised Statutes, 25-7-122, **amend**
23 (1)(b) introductory portion as follows:

24 **25-7-122. Civil penalties - rules.**

25 (1) Upon application of the division, the division may collect
26 penalties as determined under this article 7 by instituting an action in the
27 district court for the district in which the air pollution source affected is

1 located, in accordance with the following provisions:

2 (b) Any person who violates any requirement or prohibition of a
3 final order of the division or commission, an applicable emission control
4 regulation of the commission, the state implementation plan, a
5 construction permit, any provision for the prevention of significant
6 deterioration under part 2 of this article 7, any provision related to
7 attainment under part 3 of this article 7, or any provision of or
8 commission rule adopted pursuant to section 25-7-105, 25-7-106,
9 25-7-106.3, 25-7-108, 25-7-109, 25-7-109.5, ~~25-7-109.7~~, 25-7-111,
10 25-7-112, 25-7-113, 25-7-114.2, 25-7-114.5, 25-7-118, 25-7-141,
11 25-7-146, 25-7-206, 25-7-403, 25-7-404, 25-7-405, 25-7-407, 42-4-403,
12 42-4-404, 42-4-405, 42-4-406, 42-4-407, 42-4-409, 42-4-410, or
13 42-4-414 is subject to a civil penalty of not more than forty-seven
14 thousand three hundred fifty-seven dollars per day for each day of the
15 violation; except that:

16 **SECTION 4.** In Colorado Revised Statutes, 25-7-129, **amend**
17 (2)(a) introductory portion, (2)(a)(IV), and (2)(a)(V) introductory portion;
18 and **add** (2)(a)(VI), (2)(a)(VII), (2)(a)(VIII), (2)(a)(IX), and (2)(c) as
19 follows:

20 **25-7-129. Disposition of fines - community impact cash fund**
21 **- repeal.**

22 (2) (a) The state treasurer shall credit the receipts from penalties
23 or fines collected under sections ~~25-7-109.7~~, 25-7-115, 25-7-122, and
24 25-7-123 in the following manner:

25 (IV) For state fiscal year 2024-25, eighty percent of the receipts
26 from penalties or fines collected during the fiscal year shall be credited
27 to the fund, and twenty percent to the general fund; ~~and~~

1 (V) For state fiscal year 2025-26: ~~and any state fiscal year~~
2 ~~thereafter:~~

3 (VI) FOR STATE FISCAL YEAR 2026-27:

4 (A) THE FIRST FIVE HUNDRED THOUSAND DOLLARS TO FUND THE
5 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT'S COSTS TO
6 IMPLEMENT SECTION 25-7-109.7;

7 (B) THE NEXT ONE MILLION DOLLARS TO THE MOTOR VEHICLE
8 EMISSIONS ASSISTANCE FUND ESTABLISHED IN SECTION 25-7-129.5; AND

9 (C) ONE HUNDRED PERCENT OF THE REMAINDER TO THE FUND;

10 (VII) FOR STATE FISCAL YEAR 2027-28:

11 (A) THE FIRST NINE HUNDRED THOUSAND DOLLARS TO FUND THE
12 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT'S COSTS TO
13 IMPLEMENT SECTION 25-7-109.7;

14 (B) THE NEXT ONE MILLION DOLLARS TO THE MOTOR VEHICLE
15 EMISSIONS ASSISTANCE FUND ESTABLISHED IN SECTION 25-7-129.5; AND

16 (C) ONE HUNDRED PERCENT OF THE REMAINDER TO THE FUND;

17 (VIII) FOR STATE FISCAL YEAR 2028-29:

18 (A) THE FIRST NINE HUNDRED THOUSAND DOLLARS TO FUND THE
19 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT'S COSTS TO
20 IMPLEMENT SECTION 25-7-109.7;

21 (B) THE NEXT ONE MILLION DOLLARS TO THE MOTOR VEHICLE
22 EMISSIONS ASSISTANCE FUND ESTABLISHED IN SECTION 25-7-129.5; AND

23 (C) ONE HUNDRED PERCENT OF THE REMAINDER TO THE FUND;

24 AND

25 (IX) FOR STATE FISCAL YEAR 2029-30 AND ANY STATE FISCAL
26 YEAR THEREAFTER:

27 (A) THE FIRST ONE MILLION DOLLARS TO THE MOTOR VEHICLE

1 EMISSIONS ASSISTANCE FUND ESTABLISHED IN SECTION 25-7-129.5; AND

2 (B) ONE HUNDRED PERCENT OF THE REMAINDER TO THE FUND.

3 (c) THIS SUBSECTION (2)(c) AND SUBSECTIONS (2)(a)(V),
4 (2)(a)(VI), (2)(a)(VII), AND (2)(a)(VIII) OF THIS SECTION ARE REPEALED,
5 EFFECTIVE SEPTEMBER 1, 2030.

6 **SECTION 5.** In Colorado Revised Statutes, 25-7-129.5, **amend**
7 (2) as follows:

8 **25-7-129.5. Motor vehicle emissions assistance fund - division**
9 **to provide grants - gifts, grants, or donations - definition.**

10 (2) The motor vehicle emissions assistance fund is created in the
11 state treasury. The fund consists of money credited to the fund pursuant
12 to ~~section 25-7-129 (2)(a)(V)(A)~~ SECTION 25-7-129 (2)(a), any other
13 money that the general assembly may appropriate or transfer to the fund,
14 and any gifts, grants, and donations received under subsection (5) of this
15 section.

16 **SECTION 6. Safety clause.** The general assembly finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, or safety or for appropriations for
19 the support and maintenance of the departments of the state and state
20 institutions.