

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 18-0227.01 Jennifer Berman x3286

HOUSE BILL 18-1053

HOUSE SPONSORSHIP

Arndt and Hansen, Esgar

SENATE SPONSORSHIP

Donovan, Coram, Jones

House Committees

Agriculture, Livestock, & Natural Resources
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE ALLOWABLE USES OF RECLAIMED DOMESTIC**
102 **WASTEWATER, AND, IN CONNECTION THEREWITH, ALLOWING**
103 **RECLAIMED DOMESTIC WASTEWATER TO BE USED FOR**
104 **MARIJUANA CULTIVATION.**

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/>.)

Water Resources Review Committee. The bill codifies rules promulgated by the water quality control commission (commission) of the Colorado department of public health and environment concerning

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

HOUSE
3rd Reading Unamended
April 25, 2018

HOUSE
Amended 2nd Reading
April 24, 2018

allowable uses of reclaimed domestic wastewater, which is wastewater that has been treated for subsequent reuses other than drinking water. **Section 3** of the bill defines 3 categories of water quality standards for reclaimed domestic wastewater, sets forth the allowable uses for each water quality standard category, and adds marijuana cultivation as an allowable use for reclaimed domestic wastewater. Section 3 also authorizes the commission to establish new categories of water quality standards and to recategorize any use of reclaimed domestic wastewater to a less stringent category of water quality standard. Section 3 also authorizes the division of administration in the department of public health and environment to grant variances for uses of reclaimed domestic wastewater. **Sections 1, 2, and 4** make conforming amendments.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25-8-103, **amend**
3 (17.5) as follows:

4 **25-8-103. Definitions.** As used in this article 8, unless the context
5 otherwise requires:

6 (17.5) "Reclaimed domestic wastewater" means wastewater that
7 has received treatment IN ACCORDANCE WITH SECTION 25-8-205.7 AND
8 that enables the wastewater to meet the requirements, prohibitions,
9 standards, and concentration limitations adopted by the commission for
10 subsequent reuses other than drinking.

11 **SECTION 2.** In Colorado Revised Statutes, 25-8-205, **amend**
12 (1)(f) as follows:

13 **25-8-205. Control regulations.** (1) The commission may
14 promulgate control regulations for the following purposes:

15 (f) IN ACCORDANCE WITH SECTION 25-8-205.7, to describe
16 requirements, prohibitions, standards, and concentration limitations on the
17 reuse of reclaimed domestic wastewater for purposes other than drinking
18 that will protect public health and encourage the reuse of reclaimed
19 domestic wastewater;

1 **SECTION 3.** In Colorado Revised Statutes, **add 25-8-205.7** as
2 follows:

3 **25-8-205.7. Control regulations for reuse of reclaimed**
4 **domestic wastewater - definitions - rules.** (1) AS USED IN THIS SECTION,
5 UNLESS THE CONTEXT OTHERWISE REQUIRES:

6 (a) "CATEGORY 1 STANDARD" MEANS A WATER QUALITY
7 STANDARD FOR RECLAIMED DOMESTIC WASTEWATER:

8 (I) REQUIRING, AT A MINIMUM, THAT THE WATER HAS RECEIVED
9 SECONDARY TREATMENT WITH DISINFECTION; AND

10 (II) FOR WHICH, AT THE POINT OF COMPLIANCE, THE WATER MEETS
11 THE E. COLI AND TOTAL SUSPENDED SOLIDS STANDARDS PROMULGATED BY
12 THE COMMISSION FOR CATEGORY 1 WATER.

13 (b) "CATEGORY 2 STANDARD" MEANS A WATER QUALITY
14 STANDARD FOR RECLAIMED DOMESTIC WASTEWATER:

15 (I) REQUIRING, AT A MINIMUM, THAT THE WATER HAS RECEIVED
16 SECONDARY TREATMENT WITH FILTRATION AND DISINFECTION; AND

17 (II) FOR WHICH, AT THE POINT OF COMPLIANCE, THE WATER MEETS
18 THE E. COLI AND TURBIDITY STANDARDS PROMULGATED BY THE
19 COMMISSION FOR CATEGORY 2 WATER.

20 (c) "CATEGORY 3 STANDARD" MEANS A WATER QUALITY
21 STANDARD FOR RECLAIMED DOMESTIC WASTEWATER:

22 (I) REQUIRING, AT A MINIMUM, THAT THE WATER HAS RECEIVED
23 SECONDARY TREATMENT WITH FILTRATION AND DISINFECTION; AND

24 (II) FOR WHICH, AT THE POINT OF COMPLIANCE, THE WATER MEETS
25 THE E. COLI AND TURBIDITY STANDARDS PROMULGATED BY THE
26 COMMISSION FOR CATEGORY 3 WATER.

27 (d) "E. COLI" MEANS THE ESCHERICHIA COLI BACTERIA THAT ARE

1 FOUND IN THE ENVIRONMENT, FOODS, AND THE INTESTINES OF PEOPLE AND
2 ANIMALS.

3 (e) (I) "FOOD CROP" MEANS A CROP PRODUCED FOR DIRECT HUMAN
4 CONSUMPTION OR A TREE THAT PRODUCES NUTS OR FRUIT INTENDED FOR
5 DIRECT HUMAN CONSUMPTION.

6 (II) "FOOD CROP" DOES NOT INCLUDE A CROP PRODUCED FOR
7 ANIMAL CONSUMPTION ONLY; EXCEPT THAT A CROP PRODUCED WHERE
8 LACTATING DAIRY ANIMALS FORAGE IS A FOOD CROP.

9 (f) (I) "MARIJUANA" HAS THE SAME MEANING AS SET FORTH IN
10 SECTION 16 (2)(f) OF ARTICLE XVIII OF THE COLORADO CONSTITUTION.

11 (II) "MARIJUANA" INCLUDES A USABLE FORM OF MARIJUANA USED
12 FOR MEDICAL USE, AS THOSE TERMS ARE DEFINED IN SECTION 14 (1) OF
13 ARTICLE XVIII OF THE COLORADO CONSTITUTION.

14 (g) (I) "POINT OF COMPLIANCE" MEANS, EXCEPT AS PROVIDED IN
15 SUBSECTION (1)(g)(II) OF THIS SECTION, A POINT, AS IDENTIFIED BY THE
16 PERSON THAT TREATS THE WATER, IN THE RECLAIMED DOMESTIC
17 WASTEWATER TREATMENT PROCESS OR THE RECLAIMED DOMESTIC
18 WASTEWATER TRANSPORTATION PROCESS, THAT OCCURS AFTER ALL
19 TREATMENT HAS BEEN COMPLETED BUT BEFORE DILUTION AND BLENDING
20 OF THE WATER HAS OCCURRED.

21 (II) IF RECLAIMED DOMESTIC WASTEWATER IS USED FOR INDOOR
22 NONPOTABLE USES WITHIN A BUILDING WHERE PLUMBING FIXTURES ARE
23 ACCESSIBLE BY THE GENERAL PUBLIC, "POINT OF COMPLIANCE" IS AT THE
24 LOCATION WHERE WATER IS DELIVERED TO THE OCCUPIED PREMISES.

25 (2) RECLAIMED DOMESTIC WASTEWATER MAY BE USED AS
26 FOLLOWS:

27 (a) IN COMPLIANCE WITH THE CATEGORY 1 STANDARD, FOR:

- 1 (I) EVAPORATIVE INDUSTRIAL PROCESSES;
- 2 (II) NONEVAPORATIVE INDUSTRIAL PROCESSES;
- 3 (III) NONDISCHARGING CONSTRUCTION AND ROAD MAINTENANCE;
- 4 (IV) LANDSCAPE IRRIGATION AT SITES WITH RESTRICTED ACCESS;
- 5 (V) ZOO OPERATIONS;
- 6 (VI) IRRIGATION OF CROPS THAT ARE NOT FOOD CROPS; AND
- 7 (VII) SILVICULTURE.

8 (b) IN COMPLIANCE WITH THE CATEGORY 2 STANDARD, FOR:

9 (I) ALL OF THE USES FOR WHICH RECLAIMED DOMESTIC
10 WASTEWATER MAY BE USED IN COMPLIANCE WITH THE CATEGORY 1
11 STANDARD;

- 12 (II) WASHWATER APPLICATIONS;
- 13 (III) LANDSCAPE IRRIGATION AT SITES WITHOUT RESTRICTED
14 ACCESS;
- 15 (IV) COMMERCIAL LAUNDRIES;
- 16 (V) AUTOMATED VEHICLE WASHING;
- 17 (VI) MANUAL, NONPUBLIC VEHICLE WASHING;
- 18 (VII) NONRESIDENTIAL FIRE PROTECTION; AND
- 19 (VIII) MARIJUANA CULTIVATION; EXCEPT THAT RECLAIMED

20 DOMESTIC WASTEWATER SHALL NOT BE USED IN CONTRAVENTION OF
21 STATE LAWS AND REGULATIONS REGARDING MARIJUANA.

22 (c) IN COMPLIANCE WITH THE CATEGORY 3 STANDARD, FOR:

23 (I) ALL OF THE USES FOR WHICH RECLAIMED DOMESTIC
24 WASTEWATER MAY BE USED IN COMPLIANCE WITH THE CATEGORY 1
25 STANDARD AND THE CATEGORY 2 STANDARD;

26 (II) LANDSCAPE IRRIGATION AT SITES THAT ARE CONTROLLED BY
27 RESIDENTS; AND

1 (III) RESIDENTIAL FIRE PROTECTION.

2 (3) ALL RECLAIMED DOMESTIC WASTEWATER SYSTEMS MUST BE
3 COMPLIANT WITH AND INSTALLED IN ACCORDANCE WITH ARTICLE 58 OF
4 TITLE 12 AND ANY RULES PROMULGATED PURSUANT TO THAT ARTICLE.

5 (4) IN ADDITION TO COMPLYING WITH THE CATEGORY 2 STANDARD
6 PURSUANT TO SUBSECTION (2)(b)(VIII) OF THIS SECTION, REGARDLESS OF
7 WHETHER THE USE IS FOR MARIJUANA PRODUCED FOR COMMERCIAL OR
8 NONCOMMERCIAL USE, RECLAIMED DOMESTIC WASTEWATER MAY BE USED
9 FOR MARIJUANA CULTIVATION ONLY IF THE USE MEETS THE WATER
10 QUALITY STANDARDS FOR COMMERCIAL CROPS SET FORTH IN THE FEDERAL
11 "FDA FOOD SAFETY MODERNIZATION ACT", PUB.L. 111-353, AS
12 AMENDED. IN PROMULGATING RULES FOR THE CATEGORY 2 STANDARD AT
13 THE POINT OF COMPLIANCE FOR USE OF RECLAIMED DOMESTIC
14 WASTEWATER FOR MARIJUANA CULTIVATION, THE COMMISSION SHALL NOT
15 PROMULGATE ANY RULE THAT IS MORE STRINGENT THAN THE RELEVANT
16 STANDARDS SET FORTH IN THE FEDERAL "FDA FOOD SAFETY
17 MODERNIZATION ACT", PUB.L. 111-353, AS AMENDED.

18 (5) (a) ON OR BEFORE DECEMBER 31, 2019, THE COMMISSION MAY
19 PROMULGATE RULES IN ACCORDANCE WITH THIS SECTION.

20 (b) IN PROMULGATING RULES IN ACCORDANCE WITH THIS SECTION,
21 THE COMMISSION:

22 (I) MAY CREATE NEW CATEGORIES OF WATER QUALITY
23 STANDARDS BEYOND THE THREE CATEGORIES SET FORTH IN THIS SECTION;
24 AND

25 (II) MAY RECATEGORIZE ANY OF THE USES SET FORTH IN
26 SUBSECTION (2) OF THIS SECTION TO A LESS STRINGENT CATEGORY OF
27 WATER QUALITY STANDARD.

1 (c) THE COMMISSION, BY RULE, MAY AUTHORIZE ADDITIONAL USES
2 OF RECLAIMED DOMESTIC WASTEWATER FOR ANY OF THE CATEGORIES OF
3 WATER QUALITY STANDARDS SET FORTH IN SUBSECTION (2) OF THIS
4 SECTION OR MAY CREATE A NEW CATEGORY OF WATER QUALITY
5 STANDARD FOR ONE OR MORE ADDITIONAL USES OF RECLAIMED DOMESTIC
6 WASTEWATER.

7 (d) THE COMMISSION MAY PROMULGATE RULES MORE STRINGENT
8 THAN THE STANDARDS AND CATEGORIES SET FORTH IN SUBSECTION (2) OF
9 THIS SECTION ONLY IF THE COMMISSION:

10 (I) DETERMINES THAT THE STANDARDS AND CATEGORIES SET
11 FORTH IN SUBSECTION (2) OF THIS SECTION ARE NOT PROTECTIVE OF
12 PUBLIC HEALTH; AND

13 (II) IDENTIFIES:

14 (A) A DOCUMENTED INCIDENT OF MICROBIAL DISEASE THAT THE
15 COMMISSION DETERMINES HAS A REASONABLE POTENTIAL TO AFFECT
16 PUBLIC HEALTH AND FOR WHICH THE COMMISSION HAS IDENTIFIED AS
17 LIKELY ORIGINATING FROM RECLAIMED DOMESTIC WASTEWATER; OR

18 (B) A PEER-REVIEWED PUBLISHED ARTICLE THAT IDENTIFIES A
19 POTENTIAL PUBLIC HEALTH RISK POSED BY THE USE OF RECLAIMED
20 DOMESTIC WASTEWATER UNDER THE STANDARDS ESTABLISHED IN
21 SUBSECTION (2) OF THIS SECTION.

22 (6) FOLLOWING A PUBLIC STAKEHOLDERS PROCESS, THE WATER
23 QUALITY CONTROL DIVISION MAY DEVELOP POLICY, GUIDANCE, OR BEST
24 MANAGEMENT PRACTICES THAT ARE CONSISTENT WITH THIS SECTION, AS
25 THE DIVISION DEEMS NECESSARY TO IMPLEMENT THIS SECTION.

26 (7) IN ADDITION TO THE RELIEF AVAILABLE UNDER SECTION
27 25-8-205 (7), THE DIVISION MAY GRANT A USER OF RECLAIMED DOMESTIC

1 WASTEWATER A VARIANCE FROM THE WATER QUALITY STANDARDS SET
2 FORTH IN SUBSECTION (2) OF THIS SECTION OR ESTABLISHED BY RULE BY
3 THE COMMISSION PURSUANT TO SUBSECTION (5) OF THIS SECTION IF THE
4 USER DEMONSTRATES TO THE DIVISION'S SATISFACTION THAT THE
5 PROPOSED USAGE OF RECLAIMED DOMESTIC WASTEWATER WILL
6 SUFFICIENTLY PROTECT PUBLIC HEALTH AND THE ENVIRONMENT.

7 (9) USE OF RECLAIMED DOMESTIC WASTEWATER IS ALLOWED ONLY
8 IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE DECREES,
9 CONTRACTS, AND WELL PERMITS APPLICABLE TO THE USE OF THE SOURCE
10 WATER RIGHTS OR SOURCE WATER AND ANY RETURN FLOWS THEREFROM.

11 **SECTION 4.** In Colorado Revised Statutes, 25-8-308, **amend** (1)
12 introductory portion and (1)(h) as follows:

13 **25-8-308. Additional authority and duties of division -**
14 **penalties.** (1) In addition to the authority specified elsewhere in this
15 ~~article~~ ARTICLE 8, the division has the power to:

16 (h) Implement a program, in accordance with SECTION 25-8-205.7
17 AND rules and orders of the commission, for the reuse of reclaimed
18 domestic wastewater for purposes other than drinking.

19 **SECTION 5. Act subject to petition - effective date.** This act
20 takes effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly (August
22 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
23 referendum petition is filed pursuant to section 1 (3) of article V of the
24 state constitution against this act or an item, section, or part of this act
25 within such period, then the act, item, section, or part will not take effect
26 unless approved by the people at the general election to be held in

- 1 November 2018 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.