

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REVISED

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

LLS NO. 18-0228.01 Jennifer Berman x3286

SENATE BILL 18-038

SENATE SPONSORSHIP

Donovan and Coram, Baumgardner, Jones, Sonnenberg

HOUSE SPONSORSHIP

Esgar and Willett, Arndt, Hansen, Saine

Senate Committees

Agriculture, Natural Resources, & Energy
Appropriations

House Committees

Agriculture, Livestock, & Natural Resources
Appropriations

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 INDUSTRIAL HEMP CULTIVATION AND MAKING AN
105 APPROPRIATION.

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

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
Amended 2nd Reading
May 2, 2018

SENATE
3rd Reading Unamended
April 12, 2018

SENATE
Amended 2nd Reading
April 11, 2018

Colorado department of public health and environment concerning 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 industrial hemp 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

1 domestic wastewater;

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

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

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

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

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

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

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

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

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

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

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

1 (d) "E. COLI" MEANS THE ESCHERICHIA COLI BACTERIA THAT ARE
2 FOUND IN THE ENVIRONMENT, FOODS, AND THE INTESTINES OF PEOPLE AND
3 ANIMALS.

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

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

10 (f) "INDUSTRIAL HEMP" HAS THE SAME MEANING AS SET FORTH IN
11 SECTION 35-61-101 (7).

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

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

23 (2) RECLAIMED DOMESTIC WASTEWATER MAY BE USED AS
24 FOLLOWS:

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

26 (I) EVAPORATIVE INDUSTRIAL PROCESSES;

27 (II) NONEVAPORATIVE INDUSTRIAL PROCESSES;

1 (III) NONDISCHARGING CONSTRUCTION AND ROAD MAINTENANCE;
2 (IV) LANDSCAPE IRRIGATION AT SITES WITH RESTRICTED ACCESS;
3 (V) ZOO OPERATIONS;
4 (VI) WHEN NOT USED AS A FOOD CROP, IRRIGATION OF INDUSTRIAL
5 HEMP OR ANOTHER CROP; AND

6 (VII) SILVICULTURE.

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

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

11 (II) WASHWATER APPLICATIONS;

12 (III) LANDSCAPE IRRIGATION AT SITES WITHOUT RESTRICTED
13 ACCESS;

14 (IV) COMMERCIAL LAUNDRIES;

15 (V) AUTOMATED VEHICLE WASHING;

16 (VI) MANUAL, NONPUBLIC VEHICLE WASHING; AND

17 (VII) NONRESIDENTIAL FIRE PROTECTION.

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

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

22 (II) LANDSCAPE IRRIGATION AT SITES THAT ARE CONTROLLED BY
23 RESIDENTS; AND

24 (III) RESIDENTIAL FIRE PROTECTION.

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

1 (4) (a) ON OR BEFORE DECEMBER 31, 2019, THE COMMISSION MAY
2 PROMULGATE RULES IN ACCORDANCE WITH THIS SECTION.

3 (b) IN PROMULGATING RULES IN ACCORDANCE WITH THIS SECTION,
4 THE COMMISSION:

5 (I) MAY CREATE NEW CATEGORIES OF WATER QUALITY
6 STANDARDS BEYOND THE THREE CATEGORIES SET FORTH IN THIS SECTION;
7 AND

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

11 (c) THE COMMISSION, BY RULE, MAY AUTHORIZE ADDITIONAL USES
12 OF RECLAIMED DOMESTIC WASTEWATER FOR ANY OF THE CATEGORIES OF
13 WATER QUALITY STANDARDS SET FORTH IN SUBSECTION (2) OF THIS
14 SECTION OR MAY CREATE A NEW CATEGORY OF WATER QUALITY
15 STANDARD FOR ONE OR MORE ADDITIONAL USES OF RECLAIMED DOMESTIC
16 WASTEWATER.

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

20 (I) DETERMINES THAT THE STANDARDS AND CATEGORIES SET
21 FORTH IN SUBSECTION (2) OF THIS SECTION ARE NOT PROTECTIVE OF
22 PUBLIC HEALTH; AND

23 (II) IDENTIFIES:

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

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

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

9 (6) IN ADDITION TO THE RELIEF AVAILABLE UNDER SECTION
10 25-8-205 (6), THE DIVISION MAY GRANT A USER OF RECLAIMED DOMESTIC
11 WASTEWATER A VARIANCE FROM THE WATER QUALITY STANDARDS SET
12 FORTH IN SUBSECTION (2) OF THIS SECTION OR ESTABLISHED BY RULE BY
13 THE COMMISSION PURSUANT TO SUBSECTION (4) OF THIS SECTION IF THE
14 USER DEMONSTRATES TO THE DIVISION'S SATISFACTION THAT THE
15 PROPOSED USAGE OF RECLAIMED DOMESTIC WASTEWATER WILL
16 SUFFICIENTLY PROTECT PUBLIC HEALTH AND THE ENVIRONMENT.

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

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

23 **25-8-308. Additional authority and duties of division -**
24 **penalties.** (1) In addition to the authority specified elsewhere in this
25 ~~article~~ ARTICLE 8, the division has the power to:

26 (h) Implement a program, in accordance with SECTION 25-8-205.7
27 AND rules and orders of the commission, for the reuse of reclaimed

1 domestic wastewater for purposes other than drinking.

2 **SECTION 5. Appropriation.** For the 2018-19 state fiscal year,
3 \$40,602 is appropriated to the department of public health and
4 environment for use by the water quality control division. This
5 appropriation is from the general fund and is based on an assumption that
6 the division will require an additional 0.4 FTE. To implement this act, the
7 division may use this appropriation for the public and private utilities
8 sector.

9 **SECTION 6. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly (August
12 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
13 referendum petition is filed pursuant to section 1 (3) of article V of the
14 state constitution against this act or an item, section, or part of this act
15 within such period, then the act, item, section, or part will not take effect
16 unless approved by the people at the general election to be held in
17 November 2018 and, in such case, will take effect on the date of the
18 official declaration of the vote thereon by the governor.