

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

REENGROSSED

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

LLS NO. 20-0598.01 Thomas Morris x4218

SENATE BILL 20-008

SENATE SPONSORSHIP

Winter and Foote, Bridges, Danielson, Fenberg, Ginal, Hansen, Lee, Story

HOUSE SPONSORSHIP

Jackson and Hooton,

Senate Committees

Agriculture & Natural Resources

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE ENHANCEMENT OF PENALTIES FOR CRIMINAL**
102 **VIOLATIONS OF WATER QUALITY LAWS.**

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>.)

Current law specifies that a person who commits criminal pollution of state waters that is committed:

- ! With criminal negligence or recklessly is subject to a maximum daily fine of \$12,500; and
- ! Knowingly or intentionally is subject to a maximum daily fine of \$25,000.

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.

SENATE
3rd Reading Unamended
February 12, 2020

SENATE
Amended 2nd Reading
February 11, 2020

Section 1 of the bill makes a:

- ! Criminally negligent or reckless violation a misdemeanor and increases the penalty to \$25,000, imprisonment of up to one year, or both; and
- ! Knowing or intentional violation a class 5 felony and increases the penalty to \$50,000, imprisonment of up to 3 years, or both.

Current law specifies that a person who knowingly makes any false representation in a required record or who knowingly renders inaccurate any required water quality monitoring device or method is guilty of a misdemeanor and is subject to a fine of not more than \$10,000, imprisonment in the county jail for not more than 6 months, or both. **Section 2** makes these violations a class 5 felony and specifies that if 2 separate offenses occur in 2 separate occurrences during a period of 2 years, the maximum fine and imprisonment for the second offense are double the default amounts.

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

SECTION 1. In Colorado Revised Statutes, 25-8-609, **amend** (2), (3) introductory portion, (3)(a), and (3)(b) as follows:

25-8-609. Criminal pollution - penalties. (2) Prosecution under paragraph (a) of subsection (1) of this section shall be commenced ~~only upon complaint filed~~ REQUEST by the division or a peace officer, WHO MUST PRESENT EVIDENCE BASED ON REASONABLE SUSPICION TO EITHER THE ATTORNEY GENERAL OR A DISTRICT ATTORNEY FOR THE DISTRICT IN WHICH AN ALLEGED VIOLATION OCCURS. NO CRIMINAL VIOLATION WILL BE CHARGED WITHOUT PROBABLE CAUSE.

(3) Any person who commits criminal pollution of state waters shall be ~~fined, for each day the violation occurs,~~ PENALIZED as follows:

(a) ~~If the~~ FOR A violation is committed with criminal negligence or recklessly, as BOTH TERMS ARE defined in section 18-1-501, ~~C.R.S.~~, the VIOLATOR IS GUILTY OF A MISDEMEANOR, PUNISHABLE BY A maximum fine ~~shall be twelve~~ OF TWENTY-FIVE thousand ~~five hundred~~ dollars PER

1 DAY FOR EACH DAY THE VIOLATION OCCURS, IMPRISONMENT OF UP TO ONE
2 YEAR, OR BOTH.

3 (b) ~~If the~~ FOR A violation is committed knowingly or intentionally,
4 as BOTH TERMS ARE defined in section 18-1-501, ~~C.R.S.~~, the VIOLATOR IS
5 GUILTY OF A CLASS 5 FELONY AND, NOTWITHSTANDING SECTION
6 18-1.3-401, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A
7 maximum fine ~~shall be twenty-five~~ OF FIFTY thousand dollars PER DAY
8 FOR EACH DAY THE VIOLATION OCCURS, IMPRISONMENT OF UP TO THREE
9 YEARS, OR BOTH.

10 **SECTION 2.** In Colorado Revised Statutes, **amend** 25-8-610 as
11 follows:

12 **25-8-610. Falsification and tampering - penalties.** (1) Any
13 person who knowingly makes any MATERIAL false statement,
14 representation, or certification in any application, record, report, plan, or
15 other document filed or required to be maintained under this ~~article~~
16 ARTICLE 8 or who falsifies, tampers with, or knowingly renders inaccurate
17 any monitoring device or method required to be maintained under this
18 ~~article~~ ARTICLE 8 is guilty of a ~~misdemeanor~~ CLASS 5 FELONY and, upon
19 conviction thereof, shall be punished by ~~a fine of not more than ten~~
20 ~~thousand dollars, or by imprisonment in the county jail for not more than~~
21 ~~six months, or by both such fine and imprisonment~~ AS SPECIFIED IN
22 SECTION 18-1.3-401.

23 (2) PROSECUTION UNDER THIS SECTION SHALL BE COMMENCED
24 UPON REQUEST BY THE DIVISION OR A PEACE OFFICER, WHO MUST PRESENT
25 EVIDENCE BASED ON REASONABLE SUSPICION TO EITHER THE ATTORNEY
26 GENERAL OR A DISTRICT ATTORNEY FOR THE DISTRICT IN WHICH AN
27 ALLEGED VIOLATION OCCURS. NO CRIMINAL VIOLATION WILL BE CHARGED

1 WITHOUT PROBABLE CAUSE.

2 (3) IF TWO SEPARATE OFFENSES UNDER THIS SECTION OCCUR IN
3 TWO SEPARATE OCCURRENCES DURING A PERIOD OF TWO YEARS,
4 NOTWITHSTANDING SECTION 18-1.3-401, THE MAXIMUM FINE AND
5 IMPRISONMENT FOR THE SECOND OFFENSE ARE DOUBLE THE AMOUNTS
6 SPECIFIED IN SECTION 18-1.3-401.

7 ~~(2)~~ (4) Any penalty collected under this section shall be credited
8 to the general fund.

9 **SECTION 3. Act subject to petition - effective date -**
10 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
11 the expiration of the ninety-day period after final adjournment of the
12 general assembly (August 5, 2020, if adjournment sine die is on May 6,
13 2020); except that, if a referendum petition is filed pursuant to section 1
14 (3) of article V of the state constitution against this act or an item, section,
15 or part of this act within such period, then the act, item, section, or part
16 will not take effect unless approved by the people at the general election
17 to be held in November 2020 and, in such case, will take effect on the
18 date of the official declaration of the vote thereon by the governor.

19 (2) This act applies to offenses committed on or after the
20 applicable effective date of this act.