

order is, upon conviction, subject to a schedule "one" penalty as provided under section 327C.5.

Sec. 3. This Act, being deemed of immediate importance, takes effect upon its enactment.

Approved April 14, 1988

CHAPTER 1080

WATER AND HAZARDOUS WASTE REGULATION

S.F. 2246

AN ACT relating to the penalties for water pollution and hazardous waste disposal.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 455B.191, subsection 1, Code 1987, is amended to read as follows:

1. Any person who violates any provision of part 1 of division III of this chapter or any permit, rule, standard, or order issued under part 1 of division III of this chapter shall be subject to a civil penalty not to exceed five thousand dollars for each day of such violation. ~~The civil penalty shall be an alternative to any criminal penalty provided under part 1 of division III of this chapter.~~

Sec. 2. Section 455B.191, subsection 2, Code 1987, is amended by striking the subsection and inserting the following:

2. Any person who negligently or knowingly violates section 455B.183 or section 455B.186 or any condition or limitation included in any permit issued under section 455B.183, or who negligently or knowingly introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which the person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable federal and state requirements or permits, negligently or knowingly causes a treatment works to violate any water quality standard, effluent standard, pretreatment standard or condition of a permit issued to the treatment works pursuant to section 455B.183 is guilty of a serious misdemeanor for a negligent violation and is guilty of an aggravated misdemeanor for a knowing violation. A conviction for a negligent violation is punishable by a fine of not more than twenty-five thousand dollars for each day of violation or by imprisonment for not more than one year, or both; however, if the conviction is for a second or subsequent violation committed by a person under this subsection, the conviction is punishable by a fine of not more than fifty thousand dollars for each day of violation or by imprisonment for not more than two years, or both. A conviction for a knowing violation is punishable by a fine of not more than fifty thousand dollars for each day of violation or by imprisonment for not more than two years, or both; however, if the conviction is for a second or subsequent violation committed by a person under this subsection, the conviction is punishable by a fine of not more than one hundred thousand dollars for each day of violation or by imprisonment for not more than five years, or both. As used in this section, "hazardous substance" means hazardous substance as defined in section 455B.381 or section 455B.411.

Sec. 3. **NEW SECTION. 716B.1 DEFINITIONS.**

As used in this chapter, unless the context otherwise requires:

1. "Person" means an agency of the state or federal government, a municipality, governmental subdivisions, interstate body, public or private corporation, individual, partnership, or other entity, and includes an officer, or governing or managing body of a municipality, governmental subdivision, interstate body, or public or private corporation.

2. "Department" means the department of natural resources.
3. "Disposal" or "dispose" means disposal as defined in section 455B.411, subsection 2.
4. "Hazardous waste" means a hazardous waste as defined in section 455B.411, subsection 4, or a hazardous substance as defined in 42 U.S.C. § 9601, or a hazardous substance as designated by regulations adopted by the administrator of the United States environmental protection agency pursuant to 42 U.S.C. § 9602.
5. "Storage" or "store" means storage as defined in section 455B.411, subsection 9.
6. "Treatment" or "treat" means treatment as defined in section 455B.411, subsection 10.

Sec. 4. NEW SECTION. 716B.2 UNLAWFUL DISPOSAL OF HAZARDOUS WASTE — PENALTIES.

A person who knowingly or with reason to know, disposes of hazardous waste or arranges for or allows the disposal of hazardous waste at any location other than one authorized by the department or the United States environmental protection agency, or in violation of any material term or condition of a hazardous waste facility permit, is guilty of an aggravated misdemeanor and upon conviction shall be punished by a fine of not more than twenty-five thousand dollars for each day of violation or imprisonment for not more than two years, or both. If the conviction is for a violation committed after a first conviction under this section, the person is guilty of a class "D" felony and shall be punished by a fine of not more than fifty thousand dollars for each day of violation or imprisonment for not more than five years, or both.

Sec. 5. NEW SECTION. 716B.3 UNLAWFUL TRANSPORTATION OF HAZARDOUS WASTE — PENALTIES.

A person who knowingly or with reason to know, transports or causes to be transported any hazardous waste to any location other than a facility that is authorized to receive, treat, store, or dispose of the hazardous waste under rules adopted pursuant to 42 U.S.C. § 9601-9675 is guilty of an aggravated misdemeanor and upon conviction shall be punished by a fine of not more than twenty-five thousand dollars for each day of violation or imprisonment for not more than two years, or both. If the conviction is for a violation committed after a first conviction under this section, the person is guilty of a class "D" felony and shall be punished by a fine of not more than fifty thousand dollars for each day of violation or imprisonment for not more than five years, or both.

Sec. 6. NEW SECTION. 716B.4 UNLAWFUL STORAGE OR TREATMENT OF HAZARDOUS WASTE — PENALTIES.

A person who knowingly or with reason to know, treats or stores hazardous waste without a permit issued pursuant to 42 U.S.C. § 6925 or § 6926 is guilty of an aggravated misdemeanor and upon conviction shall be punished by a fine of not more than twenty-five thousand dollars for each day of violation or imprisonment for not more than two years, or both. If the conviction is for a violation committed after a first conviction under this section, the person is guilty of a class "D" felony and shall be punished by a fine of not more than fifty thousand dollars for each day of violation or imprisonment for not more than five years, or both.

Sec. 7. NEW SECTION. 716B.5 ENFORCEMENT.

The attorney general or the county attorney for the county in which a violation occurs is responsible for enforcement of this chapter.

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