

Gen. Enrolled 3/15, No Pass 3/25

FEB 25 1991

Place On Calendar

HOUSE FILE 2299

BY COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

(SUCCESSOR TO HSB 620)

Passed House, Date 3/16/92 (p. 611) Passed Senate, Date 3/31/92 (p. 1108)
Vote: Ayes 87 Nays 7 Vote: Ayes 39 Nays 7
Approved April 21, 1992 (p. 1707)

A BILL FOR

1 An Act relating to the establishment and assessment of civil and
2 criminal penalties including the establishment of a criminal
3 penalty for knowingly making a false statement,
4 representation, or certification in a comprehensive plan to
5 operate a sanitary disposal project.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2299

1 Section 1. Section 455B.109, subsections 1 and 2, Code
2 1991, are amended to read as follows:

3 1. The commission ~~may~~ shall establish, by rule, a schedule
4 or range of civil penalties which may be administratively
5 assessed. The schedule shall provide procedures and criteria
6 for the administrative assessment of penalties of not more
7 than ~~one~~ ten thousand dollars for minor violations of this
8 chapter or rules, permits or orders adopted or issued under
9 this chapter. In adopting a schedule or range of penalties
10 and in proposing or assessing a penalty, the commission and
11 director shall consider among other relevant factors the
12 following:

13 a. The costs saved or likely to be saved by noncompliance
14 by the violator.

15 b. The gravity of the violation.

16 c. The degree of culpability of the violator.

17 d. The maximum penalty authorized for that violation under
18 this chapter. Penalties may be administratively assessed only
19 after an opportunity for a contested case hearing which may be
20 combined with a hearing on the merits of the alleged
21 violation. ~~Major-violations, violations~~ Violations not
22 fitting within the schedule, or violations which the
23 commission determines should be referred to the attorney
24 general for legal action shall not be governed by the schedule
25 established under this subsection.

26 2. ~~If~~ When the commission establishes a schedule for minor
27 violations, the commission shall provide, by rule, a procedure
28 for the screening of alleged violations to determine which
29 cases may be appropriate for the administrative assessment of
30 penalties. However, the screening procedure shall not limit
31 the discretion of the department to refer any case to the
32 attorney general for legal action.

33 Sec. 2. NEW SECTION. 455B.316 PENALTY.

34 A person who knowingly makes a false statement or
35 representation in a plan filed pursuant to section 455B.306 is

1 guilty of a serious misdemeanor.

2 EXPLANATION

3 This bill provides for the required establishment by the
4 environmental protection commission of rules of a schedule or
5 range of civil penalties up to \$10,000 for violations of
6 chapter 455B, which is under the purview of the department of
7 natural resources. The bill also provides that a person who
8 knowingly makes a false statement or representation in a plan
9 for operating or proposing to operate a sanitary disposal
10 project is guilty of a serious misdemeanor.

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HSB 620

ENERGY AND ENVIRONMENTAL PROTECTION

Now
HOUSE FILE 2249

BY (PROPOSED COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION BILL BY CHAIRPERSON OSTERBERG)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the establishment and assessment of civil and
2 criminal penalties including the establishment of a criminal
3 penalty for knowingly making a false statement,
4 representation, or certification in a comprehensive plan to
5 operate a sanitary disposal project.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SUB COMMITTEE ASSIGNMENTS

Neuhouser
COMMITTEE: *Energy*
2-19-92

1 Section 1. Section 455B.109, subsections 1 and 2, Code
2 1991, are amended to read as follows:

3 1. The commission ~~may~~ shall establish, by rule, a schedule
4 or range of civil penalties which may be administratively
5 assessed. The schedule shall provide procedures and criteria
6 for the administrative assessment of penalties of not more
7 than ~~one~~ ten thousand dollars for ~~minor~~ violations of this
8 chapter or rules, permits or orders adopted or issued under
9 this chapter. In adopting a schedule or range of penalties
10 and in proposing or assessing a penalty, the commission and
11 director shall consider among other relevant factors the
12 following:

13 a. The costs saved or likely to be saved by noncompliance
14 by the violator.

15 b. The gravity of the violation.

16 c. The degree of culpability of the violator.

17 d. The maximum penalty authorized for that violation under
18 this chapter. Penalties may be administratively assessed only
19 after an opportunity for a contested case hearing which may be
20 combined with a hearing on the merits of the alleged
21 violation. ~~Major-violations, -violations~~ Violations not
22 fitting within the schedule, or violations which the
23 commission determines should be referred to the attorney
24 general for legal action shall not be governed by the schedule
25 established under this subsection.

26 2. ~~if~~ When the commission establishes a schedule for ~~minor~~
27 violations, the commission shall provide, by rule, a procedure
28 for the screening of alleged violations to determine which
29 cases may be appropriate for the administrative assessment of
30 penalties. However, the screening procedure shall not limit
31 the discretion of the department to refer any case to the
32 attorney general for legal action.

33 Sec. 2. NEW SECTION. 455B.316 PENALTY.

34 A person who knowingly makes a false statement or
35 representation in a plan filed pursuant to section 455B.306 is

1 guilty of a serious misdemeanor.

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EXPLANATION

3 This bill provides for the required establishment by the
4 environmental protection commission of rules of a schedule or
5 range of civil penalties up to \$10,000 for violations of
6 chapter 455B, which is under the purview of the department of
7 natural resources. The bill also provides that a person who
8 knowingly makes a false statement or representation in a plan
9 for operating or proposing to operate a sanitary disposal
10 project is guilty of a serious misdemeanor.

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HOUSE FILE 2299

AN ACT

RELATING TO THE ESTABLISHMENT AND ASSESSMENT OF CIVIL AND CRIMINAL PENALTIES INCLUDING THE ESTABLISHMENT OF A CRIMINAL PENALTY FOR KNOWINGLY MAKING A FALSE STATEMENT, REPRESENTATION, OR CERTIFICATION IN A COMPREHENSIVE PLAN TO OPERATE A SANITARY DISPOSAL PROJECT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 455B.109, subsections 1 and 2, Code 1991, are amended to read as follows:

1. The commission ~~may~~ shall establish, by rule, a schedule or range of civil penalties which may be administratively assessed. The schedule shall provide procedures and criteria for the administrative assessment of penalties of not more than one ~~ten~~ thousand dollars for minor violations of this chapter or rules, permits or orders adopted or issued under this chapter. In adopting a schedule or range of penalties and in proposing or assessing a penalty, the commission and director shall consider among other relevant factors the following:

- a. The costs saved or likely to be saved by noncompliance by the violator.
- b. The gravity of the violation.
- c. The degree of culpability of the violator.
- d. The maximum penalty authorized for that violation under this chapter. Penalties may be administratively assessed only after an opportunity for a contested case hearing which may be combined with a hearing on the merits of the alleged violation. ~~Major-violations-violations~~ Violations not fitting within the schedule, or violations which the commission determines should be referred to the attorney general for legal action shall not be governed by the schedule established under this subsection.

2. ~~If~~ When the commission establishes a schedule for minor violations, the commission shall provide, by rule, a procedure for the screening of alleged violations to determine which cases may be appropriate for the administrative assessment of penalties. However, the screening procedure shall not limit the discretion of the department to refer any case to the attorney general for legal action.

Sec. 2. NEW SECTION. 455B.316 PENALTY.

A person who knowingly makes a false statement or representation in a plan filed pursuant to section 455B.306 is guilty of a serious misdemeanor.

ROBERT C. ARNOULD
Speaker of the House

MICHAEL E. GRONSTAL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2299, Seventy-fourth General Assembly.

Approved April 21, 1992

JOSEPH O'HERN
Chief Clerk of the House

TERRY E. BRANSTAD
Governor