

**Fifty-sixth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Tuesday, the fifth day of January,
one thousand nine hundred and ninety-nine**

SENATE BILL NO. 2178
(Natural Resources Committee)
(At the request of the Department of Health)

AN ACT to amend and reenact sections 23-25-10 and 61-28-08 of the North Dakota Century Code, relating to air and water pollution penalties; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-25-10 of the North Dakota Century Code is amended and reenacted as follows:

23-25-10. Enforcement - Penalties - Injunctions.

1. ~~If, after the completion of the administrative hearing process, the department determines that a violation of this chapter, or any rule, regulation, or order of the department issued under this chapter, has occurred, it shall make all of its evidence and findings available to the attorney general for use in any remedial action his office determines to be appropriate, including an action for injunctive relief.~~
2. Any person who willfully violates this chapter, or any permit condition ~~or~~, rule, order, limitation, or other applicable requirement implementing this chapter ~~must be punished by,~~ is subject to a fine of not more than ~~twenty-five~~ ten thousand dollars per day ~~of per~~ violation, or by imprisonment ~~in the county jail~~ for not more than one year, or ~~by both such fine and imprisonment.~~ If the conviction is for a violation committed after a first conviction of such person under this subsection, punishment must be by a fine of not more than ~~fifty~~ twenty thousand dollars per day ~~of per~~ violation, or by imprisonment ~~in the county jail~~ for not more than two years, or ~~by both such fine and imprisonment.~~
2. Any person who violates this chapter, or any permit condition, rule, order, limitation, or other applicable requirement implementing this chapter, with criminal negligence as defined by section 12.1-02-02, is subject to a fine of not more than ten thousand dollars per day per violation, or by imprisonment for not more than six months, or both.
3. Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter ~~or any permit condition, rule, order, limitation, or other applicable requirement implementing this chapter,~~ or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter; ~~must or any permit condition, rule, order, limitation, or other applicable requirement implementing this chapter,~~ upon conviction, ~~be punished by~~ is subject to a fine of not more than ten thousand dollars per day per violation, or by imprisonment ~~in the county jail~~ for not more than six months, or ~~by both such fine and imprisonment.~~
4. Any person who violates this chapter, or any permit condition ~~or~~, rule, order, limitation, or other applicable requirement implementing this chapter, ~~and any person who violates any order issued by the department,~~ is subject to a civil penalty not to exceed ten thousand dollars per day ~~of such per~~ violation.

~~Nothing in this chapter may be construed to deny use of the remedy of injunctive relief where it is deemed appropriate.~~

5. Without prior revocation of any pertinent permits, the department, in accordance with the laws of this state governing injunction or other process, may maintain an action in the

name of the state against any person to enjoin any threatened or continuing violation of any provision of this chapter or any permit condition, rule, order, limitation, or other applicable requirement implementing this chapter.

SECTION 2. AMENDMENT. Section 61-28-08 of the North Dakota Century Code is amended and reenacted as follows:

61-28-08. Penalties - Injunctions.

1. Any person who willfully violates this chapter, or any permit condition ~~or~~, rule, order, limitation, or other applicable requirement implementing this chapter ~~shall be punished by~~, is subject to a fine of not more than ~~twenty-five~~ ten thousand dollars per day ~~of per~~ violation, or by imprisonment ~~in the county jail~~ for not more than one year, or both. If the conviction is for a violation committed after a first conviction of such person under this ~~paragraph~~ subsection, punishment shall be by a fine of not more than ~~fifty~~ twenty thousand dollars per day ~~of per~~ violation, or by imprisonment ~~in the county jail~~ for not more than two years, or ~~by~~ both.
2. Any person who violates this chapter or any permit condition, rule, order, limitation, or other applicable requirement implementing this chapter, with criminal negligence as defined by section 12.1-02-02, is subject to a fine of not more than ten thousand dollars per day per violation, or by imprisonment for not more than six months, or both.
3. Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter or any permit condition, rule, order, limitation, or other applicable requirement implementing this chapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter or any permit condition, rule, order, limitation, or other applicable requirement implementing this chapter, ~~shall upon conviction, be punished by~~ is subject to a fine of not more than ~~ten~~ five thousand dollars per day per violation or by imprisonment ~~in the county jail~~ for not more than six months, or ~~by~~ both.
3. 4. Any person who violates this chapter, or any permit condition ~~or~~, rule, order, limitation, or other applicable requirement implementing ~~the~~ this chapter, ~~and any person who violates any order issued by the department shall be~~ is subject to a civil penalty not to exceed ~~ten~~ five thousand dollars per day ~~of such~~ per violation.
4. 5. ~~The~~ Without prior revocation of any pertinent permits, the department may, in accordance with the laws of this state governing injunctions or other process, maintain an action in the name of the state against any person ~~violating~~ to enjoin any threatened or continuing violation of any provision of this chapter or any permit condition, rule, ~~regulation, or order issued thereunder~~, limitation, or other applicable requirement implementing this chapter.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2178.

Senate Vote: Yeas 43 Nays 3 Absent 3

House Vote: Yeas 83 Nays 11 Absent 4

Secretary of the Senate

Received by the Governor at _____ M. on _____, 1999.

Approved at _____ M. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,

at _____ o'clock _____ M.

Secretary of State