

Sixty-third
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1061

Introduced by

Energy and Natural Resources Committee

(At the request of the State Engineer)

1 A BILL for an Act to amend and reenact sections 61-03-23, 61-04-27, and 61-04-30 of the North
2 Dakota Century Code, relating to ~~penalties for violation of provisions for the appropriation of~~
3 water rights; to provide a penalty; and to declare an emergency.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 61-03-23 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **61-03-23. Penalties - Civil.**

8 In addition to criminal sanctions that may be imposed pursuant to law, a person who
9 ~~knowingly~~ violates any provision of this title or any rules adopted under this title may be
10 assessed a civil penalty not to exceed ~~five~~twenty-five thousand dollars for each day the violation
11 occurred and continues to occur and may be required by the state engineer to forfeit any right to
12 the use of water. The civil penalty for violation of an irrigation appropriation permit may not
13 exceed five thousand dollars for each day the violation occurred and continues to occur. The
14 civil penalty or forfeiture of a right to use water may be adjudicated by the courts or by the state
15 engineer through an administrative hearing under chapter 28-32.

16 If a civil penalty levied by the state engineer after an administrative hearing is not paid
17 within thirty days after a final determination that the civil penalty is owed, the civil penalty may
18 be assessed against the property of the landowner responsible for the violation leading to the
19 assessment of the penalty. The assessment must be collected as other assessments made
20 under this title are collected. Notwithstanding the provisions of section 57-20-22, all interest and
21 penalties due on the assessment must be paid to the state. Any civil penalty assessed under
22 this section must be in addition to any costs incurred by the state engineer for enforcement of
23 the order.

1 **SECTION 2. AMENDMENT.** Section 61-04-27 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **61-04-27. Information filed with state engineer - Installation of measuring devices.**

4 On or before the ~~first~~^{thirty-first} day of ~~February~~^{March} of each year all persons holding a
5 water permit, ~~including irrigation districts, federal agencies, and political subdivisions,~~ shall file
6 with the state engineer, on forms supplied by the state engineer, topographic, mapping,
7 foundation test borings, design, water use, and such other information as the state engineer
8 shall require. The state engineer may also require any such persons to install measuring
9 devices, which must conform to the state engineer's specifications, at all points specified by the
10 state engineer.

11 **SECTION 3. AMENDMENT.** Section 61-04-30 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **61-04-30. Penalty.**

14 A person who constructs works for an appropriation, or diverts, impounds, withdraws, or
15 uses a significant amount of water from any source without a permit specifically authorizing
16 such action, except as otherwise provided in section 61-04-02; who violates an order of the
17 state engineer; who fails or refuses to install meters, gauges, or other measuring devices or to
18 control works; who violates an order establishing corrective controls for an area or for a source
19 of water; who violates the terms of the permit; or who knowingly makes a false or misleading
20 statement in a declaration of existing rights is guilty of a class A misdemeanor. As used in this
21 section, "significant amount of water" means any amount of water in excess of that allowed in a
22 valid water permit, or any amount of water in excess of the needs for domestic and livestock
23 purposes where no permit has been issued. The state engineer shall inform the tax
24 commissioner of violations of industrial use permits.

25 **SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.