HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 189

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

AN ACT

RELATING TO THE DEPARTMENT OF ENVIRONMENT; PROHIBITING FALSE

STATEMENTS TO THE DEPARTMENT; PROVIDING CRIMINAL PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Environmental Improvement

Act is enacted to read:

"[NEW MATERIAL] FALSE STATEMENTS TO THE DEPARTMENT--

PENALTIES.--

A. No person regulated by the department shall:

(1) make a false statement or representation

to an employee of the department, whether oral, written or

visual;

(2) make a false statement, representation,

certification or omission of material fact in an application,

record, report, plan or other document filed with or submitted

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1   to the department, or required by rule to be maintained by the

2   person regulated by the department;

3   (3)   falsify, tamper with or render inaccurate

4   any device, method or record to be relied upon by the

5   department to monitor or track information;

6   (4)   falsify or conceal a material fact; or

7   (5)   make or use any document with the

8   knowledge that the document contains material false statements

9   or representations.

10   B.   A person who knowingly violates or knowingly

11   causes or allows another person to violate Subsection A of this

12   section is guilty of a fourth degree felony and shall be

13   sentenced in accordance with the provisions of Section 31-18-15

14   NMSA 1978.

15   C.   A person who is convicted of a second or

16   subsequent violation of Subsection A of this section is guilty

17   of a third degree felony and shall be sentenced in accordance

18   with the provisions of Section 31-18-15 NMSA 1978.

19   D.   A person who knowingly violates Subsection A of

20   this section or knowingly causes or allows another person to

21   violate Subsection A of this section, and whose violation

22   results in an adverse environmental impact, is guilty of a

23   third degree felony and shall be sentenced in accordance with

24   the provisions of Section 31-18-15 NMSA 1978.

25   E.   A person who knowingly violates Subsection A of

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1   this section or knowingly causes or allows another person to

2   violate Subsection A of this section, and whose violation

3   creates a substantial danger of death or serious bodily injury

4   to another person, is guilty of a second degree felony and

5   shall be sentenced in accordance with the provisions of Section

6   31-18-15 NMSA 1978.

7   F.   A person who negligently violates or negligently

8   causes or allows another person to violate Subsection A of this

9   section may be issued a compliance order pursuant to Section

10   74-1-10 NMSA 1978 with a penalty of up to ten thousand dollars

11   ($10,000) and may be ordered to take any action the department

12   finds necessary to remediate the consequences of the person's

13   negligent violation. A monetary penalty shall not be assessed

14   under this subsection for a negligent violation that is

15   discovered by the person regulated by the department, provided

16   that the person immediately notifies the department of the

17   negligent violation in writing and agrees in writing to

18   promptly take any action the department finds necessary to

19   remediate the consequences of the negligent violation.

20   G.   For the purposes of this section, "person

21   regulated by the department" means:

22   (1)   an applicant for or holder of a liquid

23   waste permit issued or to be issued pursuant to the

24   Environmental Improvement Act and applicable rules;

25   (2)   a person who owns a liquid waste system

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subject to a permit requirement who has failed to obtain the

required permit;

(3)   an owner or operator of a public water

system subject to the Environmental Improvement Act and

applicable rules; or

(4)   an agent or other person acting on behalf

of any of the persons covered by Paragraphs (1) through (3) of

this subsection."

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underscored material = new
[bracketed material] = delete

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