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HOUSE BILL 371

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Kelly K. Fajardo

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. For the purposes of this section, "person regulated by the department" means:

(1) an applicant for or holder of a liquid waste permit issued or to be issued pursuant to the Environmental Improvement Act and applicable rules;

(2) a person who owns a liquid waste system subject to a permit requirement who has failed to obtain the

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1 required permit;

2 (3) an owner or operator of a public water
3 system subject to the Environmental Improvement Act and
4 applicable rules; or

5 (4) an agent or other person acting on behalf
6 of any of the persons covered by Paragraphs (1) through (3) of
7 this subsection.

8 B. No person regulated by the department shall:

9 (1) make a false statement or representation
10 to an employee of the department, whether oral, written or
11 visual;

12 (2) make a false statement, representation,
13 certification or omission of material fact in an application,
14 record, report, plan or other document filed with or submitted
15 to the department, or required by rule to be maintained by the
16 person regulated by the department;

17 (3) falsify, tamper with or render inaccurate
18 any device, method or record to be relied upon by the
19 department to monitor or track information;

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

21 (5) make or use any document with the
22 knowledge that the document contains material false statements
23 or representations.

24 C. A person who knowingly violates or knowingly
25 causes or allows another person to violate Subsection B of this

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1 section is guilty of a fourth degree felony and shall be
2 sentenced in accordance with the provisions of Section 31-18-15
3 NMSA 1978.

4 D. A person who is convicted of a second or
5 subsequent violation of Subsection B of this section is guilty
6 of a third degree felony and shall be sentenced in accordance
7 with the provisions of Section 31-18-15 NMSA 1978.

8 E. A person who knowingly violates Subsection B of
9 this section or knowingly causes or allows another person to
10 violate Subsection B of this section, and whose violation
11 results in a degradation of a water body, is guilty of a third
12 degree felony and shall be sentenced in accordance with the
13 provisions of Section 31-18-15 NMSA 1978.

14 F. A person who knowingly violates Subsection B of
15 this section or knowingly causes or allows another person to
16 violate Subsection B of this section, and whose violation
17 creates a substantial danger of death or serious bodily injury
18 to another person, is guilty of a second degree felony and
19 shall be sentenced in accordance with the provisions of Section
20 31-18-15 NMSA 1978.

21 G. A person who negligently violates or negligently
22 causes or allows another person to violate Subsection B of this
23 section may be issued a compliance order pursuant to Section
24 74-1-10 NMSA 1978 with a penalty of up to ten thousand dollars
25 (\$10,000) and may be ordered to take any action the department

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1 finds necessary to remediate the consequences of the person's
2 negligent violation. A monetary penalty shall not be assessed
3 under this subsection for a negligent violation that is
4 discovered by the person regulated by the department; provided
5 that the person immediately notifies the department of the
6 negligent violation in writing and agrees in writing to
7 promptly take any action the department finds necessary to
8 remediate the consequences of the negligent violation."

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