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HOUSE BILL 1149

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

GARY K. KING

AN ACT

RELATING TO THE ENVIRONMENT; PROVIDING FOR ENVIRONMENTAL AUDITS;
PROVIDING FOR MITIGATION OF PENALTIES FOR VOLUNTARY DISCLOSURES
ARISING FROM SELF-AUDITS; DECLARING AN EMERGENCY.

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

Section 1. SHORT TITLE. -- This act may be cited as the
"Environmental Audit Act".

Section 2. FINDINGS-- PURPOSE. --

A. The legislature finds that:

(1) protection of the environment is enhanced
by voluntary compliance with environmental laws;

(2) voluntary compliance is fostered by
self-audit of compliance and by management systems that assure
compliance; and

(3) it is in the public interest to encourage

1 self-audit of environmental compliance.

2 B. The purpose of the Environmental Audit Act is to
3 encourage improvements in environmental compliance by providing
4 for the mitigation of penalties for violations disclosed in an
5 environmental audit report.

6 Section 3. DEFINITIONS. --As used in the Environmental
7 Audit Act:

8 A. "department" means the department of environment;

9 B. "environmental audit" means a voluntary
10 self-evaluation of compliance with any environmental law of:

11 (1) a facility by the owner or operator; or

12 (2) the operation of a facility by an owner or
13 operator;

14 C. "environmental audit report" means any
15 documentation or communication reporting the results of an
16 environmental audit;

17 D. "environmental law" means the Environmental
18 Improvement Act, the Air Quality Control Act, the Water Quality
19 Act, the Ground Water Protection Act, the Environmental
20 Compliance Act and the Solid Waste Act; and

21 E. "person" means an individual or any legal entity.

22 Section 4. VOLUNTARY DISCLOSURE. --

23 A. The department shall establish regulations that
24 provide for mitigation of civil penalties in those circumstances
25 when an owner or operator makes a voluntary disclosure of a

1 violation of an environmental law to the department and requests
2 technical assistance to correct deficiencies or operational
3 problems in order to achieve compliance, provided the following
4 conditions are met:

5 (1) the voluntary disclosure is made within ten
6 working days after knowledge of the information disclosed is
7 obtained by the owner or operator;

8 (2) the owner or operator is the first person
9 to make the voluntary disclosure;

10 (3) the person submits a specific date and
11 schedule for achieving compliance to the department that is
12 approved by the department;

13 (4) the disclosure is contained in an
14 environmental audit report submitted to the department; and

15 (5) the person making the disclosure cooperates
16 with the department's investigation and with efforts to achieve
17 compliance.

18 B. The mitigation of penalties granted in Subsection
19 A of this section may be withdrawn and civil penalties imposed
20 if:

21 (1) the disclosure was not voluntary;

22 (2) the violation was committed willfully by
23 the person making the disclosure;

24 (3) the schedule for compliance is not
25 maintained; or

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(4) the same or similar violation has not been previously reported by the owner or operator.

C. The department shall establish regulations pursuant to Subsection A of this section that provide for confidentiality of proprietary information. Nothing in this subsection shall be construed to make the audit confidential.

D. Submission to the department of an environmental audit report that does not demonstrate a threat to public health or safety shall not be exclusively the basis for denial of a permit. The burden of demonstrating that a violation is not a threat to public health or safety is on the owner or operator.

Section 5. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

State of New Mexico
House of Representatives

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 6, 1997

Mr. Speaker:

**Your CONSUMER AND PUBLIC AFFAIRS COMMITTEE, to
whom has been referred**

HOUSE BILL 1149

**has had it under consideration and reports same with
recommendation that it DO PASS, and thence referred to the
JUDICIARY COMMITTEE.**

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**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

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Respectfully submitted,

Gary King, Chairman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

Excused: Heaton, Rios, Sandel, Vigil

Absent: None

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