LC 1399

INTRODUCED BY Conroy Juin 1 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PENALTY 4 PROVISIONS OF THE MONTANA STRIP MINING AND RECLAMATION ACT; 5 AMENDING SECTIONS 50-1050 AND 50-1056, R.C.M. 1947." 6 7 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 50-1050, R.C.M. 1947, is amended to 9 10 read as follows: "50-1050. Notice of noncompliance--suspension of 11 permits--conditions required for reinstatement of permits. 12 13 (1) If any of the requirements of this act or rules or 14 orders of the department and the board have not been 15 complied with within the time limits set by the department 16 or the board or by this act, the department shall serve a 17 notice of noncompliance on the operator, or where found 18 necessary, the commissioner shall order the suspension of a 19 permit. The notice or order shall be handed to the operator 20 in person or served by registered mail addressed to the 21 permanent address shown on the application for a permit. The 22 notice of noncompliance or order of suspension shall specify 23 in what respects the operator has failed to comply with this act or the rules or orders of the department and the board. 24 If the operator has not complied with the requirement set 25

INTRODUCED BILL

forth in the notice of noncompliance or order of suspension
 within the time limits set therein, the permit may be
 revoked by order of the board and the performance bond
 forfeited to the department.

5 (2) Any additional permits held by an operator whose 6 mining permit has been revoked shall be suspended and the 7 operator is not eligible to receive another permit or to 8 have the suspended permits reinstated until he has complied 9 with all the requirements of this act in respect to former 10 permits issued him. An operator who has forfeited a bond is 11 not eligible to receive another permit unless the land for 12 which the bond was forfeited has been reclaimed without cost 13 to the state, or the operator has paid into the reclamation 14 account a sum together with the value of the bond, the board 15 finds adequate to reclaim the lands. An operator who has 16 been found quilty of two willful violations of this act is 17 not eligible to receive a permit under this act for a new 18 strip mine as defined in section 50-1603, R.C.M. 1947. The department may not issue any additional permits to an 19 20 operator who has repeatedly been in noncompliance or 21 violation of this act." . Section 2. Section 50-1056, R.C.M. 1947, is amended to 22 23 read as follows:

24 "50-1056. Violation -- civil penalty -- injunction --25 misdemeanor. (1) A person or operator who violates any of -2- HB 664

1 the provisions of this act or rules or orders adopted under 2 this act shall pay a civil penalty of not less than one 3 hundred dollars (\$100) nor more than one thousand dollars 4 (\$1,000) for the violation, and an additional civil penalty 5 of not less than one hundred dollars (\$100) nor more than 6 one thousand dollars (\$1,000) for each day during which a 7 violation continues, and may be enjoined from continuing 8 such violations as hereinafter provided in this section. These penalties shall be recoverable in any action brought 9 10 in the name of the state of Montana by the attorney general 11 in the district court of the first judicial district of this state, in and for the county of Lewis and Clark, or in the 12 13 district court having jurisdiction of the defendant.

14 (2) The attorney general shall, upon the request of the 15 commissioner, sue for the recovery of the penalties provided 16 in this section for, and bring an action for a restraining 17 order, temporary or permanent injunction, against an 18 operator or other person violating or threatening to violate 19 an order adopted under this act.

(3) A person who willfully violates any of the
provisions of this act, or any determination or order
adopted under this act which has become final is guilty of a
misdemeanor and shall be fined not less than five hundred
dollars (\$500) and not more than five thousand dollars
(\$5,000). Each day on which a violation occurs constitutes a

- 3-

1 separate offense.

- 2 (4) For purposes of this act, willful means an
- 3 intentional or knowing violation of this act, the rules, or
- 4 the terms of the permit and includes nonperformance of any
- 5 act which the department has specifically directed the

6 operator, in writing, to perform."

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HB 0664/03

RB 0664/03

HB 664

Approved by Committee on State Administration

1	HOUSE BILL BO. 664
2	INTRODUCED BY CONROY, LIEN
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4	A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PENALTY
5	PROVISIONS OF THE MONTANA STRIP MINING AND RECLAMATION ACT;
6	AMENDING SECTIONS 50-1050 AND 50-1056, R.C.M. 1947.*
7	
8	BE IT PRACTED BY THE LEGISLATURE OF THE STATE OF BODIANA:
9	Section 1. Section 50-1050, k.C.M. 1947, is amended to
10	read as follows:
11	*50-1050. Notice of noncompliance-suspension of
12	permits-conditions required for reinstatement of permits.
13	(1) If any of the requirements of this act or rules or
14	orders of the department and the board have not been
15	complied with within the time limits set by the department
16	or the board or by this act, the department shall serve a
17	notice of noncompliance on the operator, or where found
16	necessary, the commissioner shall order the suspension of a
19	permit. The notice or order shall be handed to the operator
20	in person or served by registered mail addressed to the
21	permanent address shown on the application for a permit. The
22	notice of noncompliance or order of suspension shall specify
23	in what respects the operator has failed to comply with this
24	act or the rules or orders of the department and the board.
25	If the operator has not complied with the requirement set

forth in the notice of noncompliance or order of suspension
 within the time limits set therein, the permit may be
 revoked by order of the board and the performance bond
 forfeited to the department.

5 (2) Any additional permits held by an operator whose mining permit has been revoked shall be suspended and the 6 7 operator is not eligible to receive another permit or to 8 have the suspended permits reinstated until he has complied with all the requirements of this act in respect to former 9 10 permits issued him. An operator who has forfeited a bond is 11 not eligible to receive another permit unless the land for 12 which the bond was forfeited has been reclaimed without cost 13 to the state, or the operator has paid into the reclamation 14 account a sum together with the value of the bond, the board 15 finds adequate to reclaim the lands. An operator who has been found guilty of two willful violations of this act is 16 17 not oligible to receive a possit under this act for a new 18 strip mine as defined in section 50 1603, R.C.H. 1947. The 19 department may not issue any THE DEPARTMENT MAY NOT ISSUE ANY 20 additional permits to an operator who has repeatedly been in 21 BORCOMPLIANCE OF violation of this act. MINING OR MINE SITE 22 LOCATION PERMITS TO AN OPERATOR WHO HAS REPEATEDLY BEEN IN 23 NONCOMPLIANCE ON VIOLATION OF THIS ACT. FOR PURPOSES OF THIS SECTION, TWO (2) OR MORE WILLPUL NONCOMPLIANCES OR 24 VIOLATIONS WITHIN & THEEE (3) YEAR PERIOD SHALL CONSTITUTE 25

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SECOND READING

2	{}}TW0-WILLPUL-OR-SIX-NON-WILLFULNONCOMPLIANCESOR
3	VIOLATIONS-OF-THIS-ACT-SHALL-REGULT-IN-THE-SUSPENSION-OF-ALL
4	OPERATIONSBYANOPERATORFOR-HOT-LESS-THAN-PIFTBEN-(15)
5	BA¥S-NOR-MORE-THAN-ONE-HUNDRED-BICHTY-{180}-BA¥S7
6	{4}THB-BEPARTMENT-SHALL-SUSPENB7-REVOKE7-OR-REFUSE-TO
7	Grant-A-Permit-T9-An-8perator-who-has-committed-twelve{12}
8	Hon-Willful-Violations-or-Honcompliances-or-This-Act-
9	{5}anoperator-who-has-been-found-cuibty-op-four-{4}
10	Wilbfud-Violations-of-This-act-is-hot-bligiblb-to-receiveA
11	Permitunderthigactfor-a-new-strip-mine-as-defined-in
12	556910N-50-16037-R.C.M1947.
13	Section 2. Section 50-1056, R.C.M. 1947, is amended to
14	read as follows:
15	*50-1056. Violation civil penalty injunction
16	misdemeanor. (1) A person or operator who violates any of
17	the provisions of this act or rules or orders adopted under
19	this act shall pay a civil penalty of not less than one
19	hundred-dollars-{\$100}_TW0-KUNBRED-FIFFY-B065686-{\$250} ONE
2 J	HUNDRED DOLLARS (\$100) nor more than ene-thousand-dollars
21	(\$1,000)_THOUGANDFIVEHUNDREDDOLLARS{\$2,590} ONE
22	THOUSAND DOLLARS (\$1,000) for the violation, and an
23	additional civil penalty of not less than onehundred
24	dellars(\$100)-TWO-HUNDRED-FIFTY-DOLLARS-(\$250) ONE HUNDRED
25	DOLLARS (\$100) nor more than one-thousanddollars(617000)
	-3- HB 664

REPEATED NONCOMPLIANCES OR VIOLATIONS."

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##0--- TROUSARD--- PLVB--- BUNDRED--- DOLLARS--- (\$2,500) ONE_TROUSAND 1 DOLLARS (\$1,000) for each day during which a violation 2 3 continues, and may be enjoined from continuing such ш violations as hereinafter provided in this section. These 5 penalties shall be recoverable in any action brought in the 6 name of the state of Montana by the attorney general in the 7 district court of the first judicial district of this state, ы in and for the county of Lewis and Clark, or in the district court having jurisdiction of the defendant. 9

10 (2) The attorney general shall, upon the request of the 11 commissioner, sue for the recovery of the penalties provided 12 in this section for, and bring an action for a restraining 13 order, temporary or permanent injunction, against an 14 operator or other person violating or threatening to violate 15 an order adopted under this act.

16 (3) A person who willfully violates any of the 17 provisions of this act, or any determination or order 1ь adopted under this act which has become final is quilty of a 19 misdemeanor and shall be fined not less than tive hundred 20 dollars (\$500) ONE TRODSAND DOLLARS (\$1,000) and not more 21 than five thousand dellars (\$5,000) TEN THOUSAND DOLLARS 22 (\$10,000). Each day on which a violation occurs constitutes 23 a separate offense.

24 <u>(4) For purposes of this act, willful means an</u>
 25 <u>intentional or knowing violation of this act, the rules, or</u>

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1 the terms of the permit and includes nonperformance of any

2 act which the department has specifically directed OnDBNED

3 the operator, in writing, to perform."

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HOUSE BILL NO. 664 INTRODUCED BY CONROY, LIEN A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PENALTY PROVISIONS OF THE MONTANA STRIP MINING AND RECLAMATION ACT; AMENDING SECTIONS 50-1050 AND 50-1056, R.C.M. 1947." BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 50-1050, R.C.M. 1947, is amended to read as follows: "50-1050. Notice of noncompliance -- suspension of permits -- conditions required for reinstatement of permits. (1) If any of the requirements of this act or rules or orders of the department and the board have not been complied with within the time limits set by the department or the board or by this act, the department shall serve a notice of noncompliance on the operator, or where found necessary, the commissioner shall order the suspension of a permit. The notice or order shall be handed to the operator in person or served by registered mail addressed to the permanent address shown on the application for a permit. The notice of noncompliance or order of suspension shall specify 22 in what respects the operator has failed to comply with this act or the rules or orders of the department and the board. If the operator has not complied with the requirement set

forth in the notice of noncompliance or order of suspension 1 2 within the time limits set therein, the permit may be revoked by order of the board and the performance bond 3 forfeited to the department. 4

5 (2) Any additional permits held by an operator whose mining permit has been revoked shall be suspended and the 6 operator is not eligible to receive another permit or to 7 have the suspended permits reinstated until he has complied 8 with all the requirements of this act in respect to former 9 10 permits issued him. An operator who has forfeited a bond is 11 not eligible to receive another permit unless the land for 12 which the bond was forfeited has been reclaimed without cost 13 to the state, or the operator has paid into the reclamation 14 account a sum together with the value of the bond, the board 15 finds adequate to reclaim the lands. An--operator--who--has been--found--guilty-of-two-willful-violations-of-this-act-is 16 17 not-eligible-to-receive-a-permit-under-this-act--for--a-new 18 strip--mine--as-defined-in-section-58-16837-R-8-M--1947. The 19 department-may-not-issue-any THE DEPARTMENT MAY NOT ISSUE 20 ANY additional--permits--to--an-operator-who-has-repeatedly been-in-noncompliance-or-violation-of-this--act; MINING OR 21 22 MINE SITE LOCATION PERMITS TO AN OPERATOR WHO HAS REPEATEDLY 23 BEEN IN NONCOMPLIANCE OR VIOLATION OF THIS ACT. FOR PURPOSES OF THIS SECTION, TWO (2) OR MORE 24 WILLFUL 25 NONCOMPLIANCES OR VIOLATIONS WITHIN A THREE (3) YEAR PERIOD -2-HB 664

THIRD READING

1	SHALLCONSTITUTE MUST BE CONSTRUED AS REPEATED
2	NONCOMPLIANCES OR VIOLATIONS."
3	{}}WWO-WILLFUL-OR-6IX-NON-WILLFUL-NONCOMPLIANGESOR
4	Violations-of-this-act-shall-result-in-the-suspension-of-all
5	operationsbianoperatorfor-not-less-than-fifteen-(15)
6	BAYS-NOR-MORE-THAN-ONE-HUNDRED-EIGHTY-(100)-DAYS.
7	(4) THE-BEPARTMENT-6HALL-6U6PEND7-REVOKE7-OR-REFUSE-TO
8	Srant-a-Permit-to-an-operator-who-has-committed-twelve(12)
9	Non-Willful-Violations-or-Noncompliances-of-This-Act-
10	{5}ANOPERATOR-WHO-HAG-BEEK-FOUND-GUILTY-OF-FOUR-{4}
11	willful-violations-of-this-act-is-not-blisible-to-receivea
12	Permitunderthigactfor-a-new-strip-mine-ac-depined-in
13	<u>656716N-50-16037-R.C.M1947.</u>
14	Section 2. Section 50-1056, R.C.M. 1947, is amended to
15	read as follows:
16	*50-1056. Violation civil penalty injunction
17	misdemeanor. (1) A person or operator who violates any of
18	the provisions of this act or rules or orders adopted under
19	this act shall pay a civil penalty of not less than one
20	hundred-dollars-(\$100)-TWO-HUNBRED-FIFTY-DOLLAR6-(\$250) ONE
21	HUNDRED DOLLARS (\$100) nor more than one-thousand-dollars
22	<pre>{\$1,000}_TWO-THOUGANDFIVEHUNDREDDOLLARG{\$2,500} ONE</pre>
23	THOUSAND DOLLARS (\$1,000) for the violation, and an
24	additional civil penalty of not less than onehundred
25	dellars{\$198}-YWG-HUNDRED-FIFTY-DOLLARS-{\$258} ONE HUNDRED
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DOLLARS (\$100) nor more than one-thousand--dollars--(\$1,000) 1 TWO--THOUSAND--FIVE--HUNDRED--DOLLARG--(62,500) ONE THOUSAND 2 DOLLARS (\$1,000) for each day during which a violation 3 4 continues, and may be enjoined from continuing such violations as hereinafter provided in this section. These 5 penalties shall be recoverable in any action brought in the 6 7 name of the state of Montana by the attorney general in the 8 district court of the first judicial district of this state, in and for the county of Lewis and Clark, or in the district 9 court having jurisdiction of the defendant. 10 11 (2) The attorney general shall, upon the request of 12 the commissioner, sue for the recovery of the penalties provided in this section for, and bring an action for a 13 14 restraining order, temporary or permanent injunction, against an operator or other person violating or threatening 15 16 to violate an order adopted under this act. 17 (3) A person who willfully violates any of the

18 provisions of this act, or any determination or order adopted under this act which has become final is guilty of a 19 20 misdemeanor and shall be fined not less than five-hundred dollars-(\$500) ONE THOUSAND DOLLARS (\$1,000) and not more 21 22 than five--thousand--dollars--(65,000) TEN THOUSAND DOLLARS 23 (\$10,000). Each day on which a violation occurs constitutes a separate offense. 24 25 (4) For purposes of this act, willful means an

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- 1 intentional or knowing violation of this act, the rules, or
- 2 the terms of the permit and includes nonperformance of any
- 3 act which the department has specifically directed ORDERED
- 4 the operator, in writing, to perform."

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-End-

HB 0664/04

1	HOUSE BILL NO. 664
2	INTRODUCED BY CONROY, LIEN
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4	A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PENALTY
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6	AMENDING SECTIONS 50-1050 AND 50-1056, R.C.M. 1947."
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1 forth in the notice of noncompliance or order of suspension 2 within the time limits set therein, the permit may be 3 revoked by order of the board and the performance bond 4 forfeited to the department.

5 (2) Any additional permits held by an operator whose mining permit has been revoked shall be suspended and the 6 7 operator is not eligible to receive another permit or to have the suspended permits reinstated until he has complied 8 with all the requirements of this act in respect to former 9 permits issued him. An operator who has forfeited a bond is 10 not eligible to receive another permit unless the land for 11 12 which the bond was forfeited has been reclaimed without cost to the state, or the operator has paid into the reclamation 13 account a sum together with the value of the bond, the board 14 finds adequate to reclaim the lands. An--operator--who--has 15 16 been--found--quilty-of-two-willful-violations-of-this-act-is 17 not-eligible-to-receive-a-permit-under-this-act--for--a--new strip--mine--as-defined-in-section-50-16037-R.C.M.-1947. The 18 department-may-not-issue-any THE DEPARTMENT MAY NOT ISSUE 19 ANY additional--permits--to--an-operator-who-has-repeatedly 20 21 been-in-noncompliance-or-violation-of-this-act. MINING OR 22 MINE SITE LOCATION PERMITS TO AN OPERATOR WHO HAS REPEATEDLY BEEN IN NONCOMPLIANCE OR VIOLATION OF THIS ACT. 23 FOR 24 PURPOSES OF THIS SECTION, TWO (2) OR MORE WILLFUL 25 NONCOMPLIANCES OR VIOLATIONS WITHIN A THREE (3) YEAR PERIOD -2-HB 664

REFERENCE BILL

1	SHALLCONSTITUTE MUST BE CONSTRUED AS REPEATED
2	NONCOMPLIANCES OR VIOLATIONS."
3	{3}TWO-WILLFUL-OR-SIX-NON-WILLFUL-NONCOMPLIANCESOR
4	VIOLATIONS-OF-THIS-ACT-SHALL-RESULT-IN-THE-SUSPENSION-OF-ALL
5	operationsbyanoperatorfor-not-less-than-fifteen-{15}
6	DAYS-NOR-MORE-THAN-ONE-HUNDRED-EIGHTY-{100}-DAY6-
7	{4}The-department-suall-suspend₇-revoke₇-or-repuse-to
8	GRANT-A-PERMIT-TO-AN-OPERATOR-WHO-HAG-COMMITTED-TWEAVE{12}
9	Non-Willpul-Violations-or-Noncompliances-of-This-act.
10	{5}ANOPERATOR-WHO-HAG-BBEN-FOUND-GUILTY-OP-FOUR-{4}
11	willful-violationg-of-thig-act-is-not-bligible-to-receivea
12	PermitUnderThisActFor-A-New-Strip-Mine-AS-Befined-in
13	58CTION-59-16037-R.C.M1947.
14	Section 2. Section 50-1056, R.C.M. 1947, is amended to
15	read as follows:
16	*50-1056. Violation civil penalty injunction
17	misdemeanor. (1) A person or operator who violates any of
18	the provisions of this act or rules or orders adopted under
19	this act shall pay a civil penalty of not less than one
20	hundred-dollars-(\$100)-TWO-HUNDRED-FIFTY-BOLLARS-(\$250) ONE
21	HUNDRED DOLLARS (\$100) nor more than one-thousand-dollars
22	{\$1,000}_TWO-THOUGANDFIVEHUNDREDDOLLARG{\$2,500} ONE
23	THOUSAND DOLLARS (\$1,000) for the violation, and an
24	additional civil penalty of not less than onehundred
25	dollars{\$100}_TW0-HUNDRED-FIFTY-B05LARS-{\$250} ONE HUNDRED
	-3- HB 664

CONCERTING

1 DOLLARS (\$100) nor more than one-thousand--dollars--(61,000) TWO--THOUSAND--FIVE--HUNDRED--DOLLARG--(62,500) ONE THOUSAND 2 3 DOLLARS (\$1,000) for each day during which a violation continues, and may be enjoined from continuing such 4 5 violations as hereinafter provided in this section. These 6 penalties shall be recoverable in any action brought in the 7 name of the state of Montana by the attorney general in the 8 district court of the first judicial district of this state, 9 in and for the county of Lewis and Clark, or in the district 10 court having jurisdiction of the defendant.

11 (2) The attorney general shall, upon the request of 12 the commissioner, sue for the recovery of the penalties 13 provided in this section for, and bring an action for a 14 restraining order, temporary or permanent injunction, 15 against an operator or other person violating or threatening 16 to violate an order adopted under this act.

17 (3) A person who willfully violates any of the 18 provisions of this act, or any determination or order 19 adopted under this act which has become final is quilty of a 20 misdemeanor and shall be fined not less than five-hundred 21 dellars-(\$500) ONE THOUSAND DOLLARS (\$1,000) and not more 22 than five--theusand--dellars--(\$5,000) TEN THOUSAND DOLLARS 23 (\$10,000). Each day on which a violation occurs constitutes 24 a separate offense. 25 (4) For purposes of this act, willful means an

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- 1 intentional or knowing violation of this act, the rules, or
- 2 the terms of the permit and includes nonperformance of any
- 3 act which the department has specifically directed ORDERED
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-End-