

1 *House* BILL NO. *664*  
 2 INTRODUCED BY *Courcy Lion*

3  
 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 ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 50-1050, R.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  
 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  
 24 act or the rules or orders of the department and the board.  
 25 If the operator has not complied with the requirement set

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  
 6 mining permit has been revoked shall be suspended and the  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 guilty 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  
 19 department may not issue any additional permits to an  
 20 operator who has repeatedly been in noncompliance or  
 21 violation of this act."

22 Section 2. Section 50-1056, R.C.M. 1947, is amended to  
 23 read as follows:

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

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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.  
 9 These penalties shall be recoverable in any action brought  
 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  
 12 state, in and for the county of Lewis and Clark, or in the  
 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.

20 (3) A person who willfully violates any of the  
 21 provisions of this act, or any determination or order  
 22 adopted under this act which has become final is guilty of a  
 23 misdemeanor and shall be fined not less than five hundred  
 24 dollars (\$500) and not more than five thousand dollars  
 25 (\$5,000). Each day on which a violation occurs constitutes a

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."

Approved by Committee  
on State Administration

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."

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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 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 within the time limits set therein, the permit may be revoked by order of the board and the performance bond forfeited to the department.

(2) Any additional permits held by an operator whose mining permit has been revoked shall be suspended and the operator is not eligible to receive another permit or to have the suspended permits reinstated until he has complied with all the requirements of this act in respect to former permits issued him. An operator who has forfeited a bond is not eligible to receive another permit unless the land for which the bond was forfeited has been reclaimed without cost to the state, or the operator has paid into the reclamation account a sum together with the value of the bond, the board finds adequate to reclaim the lands. ~~An operator who has been found guilty of two willful violations of this act is not eligible to receive a permit under this act for a new strip mine as defined in section 50-1603, R.C.M. 1947. The department may not issue any~~ THE DEPARTMENT MAY NOT ISSUE ANY additional permits to an operator who has repeatedly been in noncompliance or violation of this act. MINING OR MINE SITE LOCATION PERMITS TO AN OPERATOR WHO HAS REPEATEDLY BEEN IN NONCOMPLIANCE OR VIOLATION OF THIS ACT. FOR PURPOSES OF THIS SECTION, TWO (2) OR MORE WILLFUL NONCOMPLIANCES OR VIOLATIONS WITHIN A THREE (3) YEAR PERIOD SHALL CONSTITUTE

1 REPEATED NONCOMPLIANCES OR VIOLATIONS."  
 2 ~~(3)--TWO-WILLFUL-OR-SIX-NON-WILLFUL--NONCOMPLIANCES--OR~~  
 3 ~~VIOLATIONS-OF-THIS-ACT-SHALL-RESULT-IN-THE-SUSPENSION-OF-ALL~~  
 4 ~~OPERATIONS--BY--AN--OPERATOR--FOR--NOT--LESS--THAN--FIFTEEN--(15)~~  
 5 ~~DAYS--NOR--MORE--THAN--ONE--HUNDRED--EIGHTY--(180)--DAYS.~~  
 6 ~~(4)--THE-DEPARTMENT-SHALL-SUSPEND,REVOKE,OR-REFUSE-TO~~  
 7 ~~GRANT-A-PERMIT-TO-AN-OPERATOR-WHO-HAS-COMMITTED-TWELVE--(12)~~  
 8 ~~NON-WILLFUL-VIOLATIONS-OR-NONCOMPLIANCES-OF-THIS-ACT.~~  
 9 ~~(5)--AN--OPERATOR-WHO-HAS-BEEN-FOUND-GUILTY-OF-FOUR--(4)~~  
 10 ~~WILLFUL-VIOLATIONS-OF-THIS-ACT-IS-NOT-ELIGIBLE-TO-RECEIVE--A~~  
 11 ~~PERMIT--UNDER--THIS--ACT--FOR-A-NEW-STRIP-MINE-AS-DEFINED-IN~~  
 12 ~~SECTION-50-16037-R.C.M.-1947.~~

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  
 18 this act shall pay a civil penalty of not less than ~~one~~  
 19 ~~hundred-dollars--(\$100)--TWO-HUNDRED-FIFTY-DOLLARS--(\$250)~~ ONE  
 20 ~~HUNDRED DOLLARS (\$100)~~ nor more than ~~one-thousand-dollars~~  
 21 ~~(\$1,000)--TWO-THOUSAND--FIVE--HUNDRED--DOLLARS--(\$2,500)~~ ONE  
 22 ~~THOUSAND DOLLARS (\$1,000)~~ for the violation, and an  
 23 additional civil penalty of not less than ~~one--hundred~~  
 24 ~~dollars--(\$100)--TWO-HUNDRED-FIFTY-DOLLARS--(\$250)~~ ONE HUNDRED  
 25 ~~DOLLARS (\$100)~~ nor more than ~~one-thousand--dollars--(\$1,000)~~

1 ~~TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500) ONE THOUSAND~~  
 2 ~~DOLLARS (\$1,000)~~ for each day during which a violation  
 3 continues, and may be enjoined from continuing such  
 4 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,  
 8 in and for the county of Lewis and Clark, or in the district  
 9 court having jurisdiction of the defendant.

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  
 18 adopted under this act which has become final is guilty of a  
 19 misdemeanor and shall be fined not less than ~~five-hundred~~  
 20 ~~dollars--(\$500)~~ ONE THOUSAND DOLLARS (\$1,000) and not more  
 21 than ~~five-thousand-dollars--(\$5,000)~~ TEN THOUSAND DOLLARS  
 22 ~~(\$10,000)~~. Each day on which a violation occurs constitutes  
 23 a separate offense.

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

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1 the terms of the permit and includes nonperformance of any  
2 act which the department has specifically directed ORDERED  
3 the operator, in writing, to perform."

-End-

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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 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 within the time limits set therein, the permit may be revoked by order of the board and the performance bond forfeited to the department.

(2) Any additional permits held by an operator whose mining permit has been revoked shall be suspended and the operator is not eligible to receive another permit or to have the suspended permits reinstated until he has complied with all the requirements of this act in respect to former permits issued him. An operator who has forfeited a bond is not eligible to receive another permit unless the land for which the bond was forfeited has been reclaimed without cost to the state, or the operator has paid into the reclamation account a sum together with the value of the bond, the board finds adequate to reclaim the lands. ~~An operator who has been found guilty of two willful violations of this act is not eligible to receive a permit under this act for a new strip mine as defined in section 50-1603, R.C.M., 1947. The department may not issue any~~ THE DEPARTMENT MAY NOT ISSUE ANY additional permits to an operator who has repeatedly been in noncompliance or violation of this act. MINING OR MINE SITE LOCATION PERMITS TO AN OPERATOR WHO HAS REPEATEDLY BEEN IN NONCOMPLIANCE OR VIOLATION OF THIS ACT. FOR PURPOSES OF THIS SECTION, TWO (2) OR MORE WILLFUL NONCOMPLIANCES OR VIOLATIONS WITHIN A THREE (3) YEAR PERIOD

1 ~~SHALL---CONSTITUTE~~ MUST BE CONSTRUED AS REPEATED  
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14 Section 2. Section 50-1056, R.C.M. 1947, is amended to  
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 18 the provisions of this act or rules or orders adopted under  
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