1 INTRODUCED BY BOWN R.

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A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR ENFORCEMENT OF THE STATE AIR AND WATER POLLUTION LAWS BY THE 5 DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES AGAINST PERSONS RESIDENT IN CANADA AND PERSONS WHO CANNOT BE LOCATED 7 IN MONTANA: AMENDING SECTIONS 69-3906. 69-3921.1. 69-4802. я AND 69-4820.1. R.C.M. 1947; PROVIDING AN IMMEDIATE EFFECTIVE 9 10 DATE."

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 69-3906, R.C.M. 1947, is amended to 14 read as follows:

*69-3906. Definitions. Unless the context requires otherwise, in this act: (1) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof.

- (2) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in a quantity and for a duration which is or tends to be injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life, property, or the conduct of business.
 - (3) "Emission" means a release into the outdoor

atmosphere of air contaminants.

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- 2 (4) "Person" means an individual, partnership, firm, association, municipality, public or private corporation, subdivision or agency of the state, trust, estate, or any other legal entity and includes bersons resident in Lanada.
- 6 (5) "Advisory council" means the air pollution control 7 advisory council provided for in section 82A-606.
- 8 (6) "Board" means the board of health and 9 environmental sciences, provided for in section 82A-605.
- 10 (7) "Department" means the department of health and 11 environmental sciences, provided for in Title:82A, chapter 12 6.*

13 Section 2. Section 69-3921-1. R.C.M. 1947: is amended 14 to read as follows:

15 #69-3921.1. Civil penalties -- actions against 16 defendants not found in Montana. (1) Any person who violates 17 any provision of this chapter, or any rule: enforced 18 thereunder or any order made pursuant thereto, shall be subject to a civil penalty not to exceed one thousand dollars (\$1,000). Each day of violation shall constitute a 20 21 separate violation. The department may institute and 22 maintain in the name of the state any enforcement proceedings hereunder. Upon request of the department, the 23 24 attorney general or the county attorney of the county of violation shall petition the district court to impose,

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assess and recover the civil-penalty. The civil-penalty is in lieu of the criminal penalty provided for in section 69-392k.

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- 4 (2) (a) Action winder subsection: (1) of this seethen is
 5 not a bar to enforcement of this chapter, or ef rules or
 6 orders made under it, by injention or other appropriate
 7 civil remedies.
 - (b) An action meder, subsection (1) or to enforce this chapter or the cules or meders made under it may be brought in the district court of any county where a violation occurs or its ithreatened if the defendant cannot be located in Montana.
- 13 (3) Monies collected hereunder shall be deposited in 14 the state general fund."
- Section 3. Section 69-4802, R.C.M. 1947, is amended to read as follows:
 - "69-4802. Definitions. Unless the context requires
 otherwise in this chapter:
 - (1) "Sewage" means water-carried waste products from residences, public buildings, institutions, or other buildings including discharge from human beings or animals together with ground water infiltration and surface water present.
- 24 (2) "Industrial waste" means any waste substance from the process of business or landustry, or from the development

- 3 (3) "*Other wastes" means garbage, municipal refuse,
 4 **Moneyed wood, sawdust, shavings, bark, lime, sand, ashes,
 5 **offal, night soil, oil, grease, tar, heat, chemicals, dead
 6 **animals, sediment, wrecked or discarded equipment,
 7 **radioactive materials, solid waste, and all other substances
 8 **that may pollute state waters;
 - (4) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or other wastes creating a hazard to human health;
- 12 (5) "Pollution" means contamination, or other 13 alteration of the physical, chemical, or biological 14 properties of any state waters, which exceeds that permitted 1.5 by Montana water quality standards, including, but not limited to, standards relating to change in temperature, 16 17 taste, color, turbidity, or odor; or discharge of any 18 liquid, gaseous, solid, radioactive, or other substance into 19 any state water which will or is likely to create a nuisance 20 or render the waters harmful, detrimental, or injurious to 21 public health, recreation, safety, welfare, livestock, wild 22 animals, birds, fish, or other wildlife. A discharge which 23 is authorized under the pollution discharge permit rules of 24 the board is not "pollution" under this chapter.
 - (6) *Sewerage system* means a device for collecting or

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- 1 conducting sewage, industrial wastes, or other wastes to an
 2 ultimate disposal point;
- 3 (7) "Treatment works" means works installed for 4 treating or holding sewage, industrial wastes, or other 5 wastes;
- (8) "Disposal system" means a system for disposing of sewage, industrial, or other wastes, and includes sewerage systems and treatment works;

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- (9) "State waters" means any body of water, irrigation system, or drainage system either surface or underground; however, this subsection does not apply to irrigation waters where the waters are used up within the irrigation system and the waters are not returned to any other state waters;
- (10) "Person" means the state, a political subdivision of the state, institution, firm, corporation, partnership, individual, or other entity and includes persons resident in Canada;
- (11) "Council" means the state water pollution control advisory council provided for in section 82A-607;
- 20 (12) "Board" means the board of health and 21 environmental sciences, provided for in section 82A-605;
- 22 (13) *Department* means the department of health and 23 environmental sciences, provided for in Title 82A, chapter 24 6;
- 25 (14) "Local department of health" means the staff,

- including health officers, employed by a county, city,
 city-county, or district board of health;
- 3 (15) "Point source" means any discernible, confined and 4 discrete conveyance, including but not limited to any pipe, 5 ditch, channel, tunnel, conduit, well, discrete fissure, 6 container, rolling stock, or vessel or other floating craft, 7 from which pollutants are or may be discharged;
 - (16) "Owner or operator" means any person who owns, leases, operates, controls or supervises a point source;
- 10 (17) "Standard of performance" means a standard adopted 11 by the board for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction 12 13 achievable through application of the best available 14 demonstrated control technology, processes, operating 15 methods. other alternatives, including, where 16 practicable, a standard permitting no discharge of 17 pollutants:
- 18 (18) "Effluent standard" means any restriction or
 19 prohibition on quantities, rates and concentrations of
 20 chemical, physical, biological and other constitutents which
 21 are discharged into state waters."
- Section 4. Section 69-4820.1, R.C.M. 1947, is amended to read as follows:
- 24 **69-4820.1. Additional enforcement remedies. (1) In 25 addition to all other remedies created by this act, the

- department is authorized to take appropriate enforcement action on its own initiative to:
- 3 (a) prevent, abate, and control the pollution of state
 4 waters:

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- (b) prevent, abate, and control any violation of a condition or limitation imposed by a permit issued under section 69-4806, R.C.N. 1947;
- (c) prevent, abate, and control any violations of regulations relating to pretreatment standards.
- (2) In furtherance of subsection (1) of this section, any person violating any condition, limitation, standard or other requirement established pursuant to this chapter may be served with a compliance order issued by the department. Such order must specify the condition, limitation, standard or other requirement violated and must set a time for compliance. However, in establishing a time for compliance, the department shall take into account the seriousness of the violation and any good faith efforts that have been made to comply with the condition, limitation, standard or other requirement that has been violated. The compliance order issued under this section shall be personally served by an authorized representative of the department.
- (3) The department is authorized to commence a civil action seeking appropriate relief, including a permanent or temporary injunction, for any violation which would be

- subject to a compliance order under subsection (2) of this section. Any action under this subsection may be commenced
- 3 in the district court of any county in which the defendant
- 4 is located or resides or is doing business or any county
- 5 where a violation occurs or is threatened if the defendant
- 6 cannot be located in Montana, and the court shall have
- 7 jurisdiction to restrain such violation and to require
 - compliance.
- 9 (4) Any person found to be in violation of a 10 condition, limitation, standard or other requirement 11 established pursuant to this section shall be subject to the 12 penalty provisions of section 69-4823, R.C.M. 1947.
- 13 (5) For the purpose of this subsection, the term
 14 "person" shall mean, in addition to the definition contained
 15 in section 69-4802, R.C.M. 1947, any responsible corporate
 16 officer."
- 17 Section 5. Effective date. This act is effective on 18 its passage and approval.

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Approved by Committee on Judiciary

Ł	SENATE BILL NO. 393
2	INTRODUCED BY BROWN, K. SMITH
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4	A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR
5	ENFORCEMENT OF THE STATE AIR AND WATER POLLUTION LAWS BY THE
6	DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES AGAINST
,	PERSONS RESIDENT IN CANADA AND PERSONS WHO CANNOT BE LOCATED
ઢ	IN MONTANA; AMENDING SECTIONS 69-3906, 69-3921.1, 69-4802,
y	AND 59-4820.1, R.C.M. 1947 1-PROVIDING-AN-IMMEDIATE-EFFECTIV E
10	ĐẠTE."
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12	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13	Section 1. Section 69-3906, R.C.M. 1947, is amended to
14	read as follows:
15	*69-3906. Definitions. Unless the context requires
16	otherwise, in this act: (1) "Air contaminant" means dust,
17	fumes, mist, smoke, other particulate matter, vanor, gas,
lo	odorous substances, or any combination thereof.
19	(2) "Air pollution" means the presence in the outdoor
20	atmosphere of one or more air contaminants in a quantity and
21	for a duration which is or tends to be injurious to human
22	health or welfare, animal or plant life, or property, or
23	would unreasonably interfere with the enjoyment of life,

(3) "Emission" means a release into the outdoor

property, or the conduct of business.

atmosphere of air contaminants. 1 2 (4) "Person" means an individual, partnership, firm, 3 association, municipality, public or private corporation, subdivision or agency of the state, trust, estate, or any other legal entity and includes persons resident in Canada. 6 (5) "Advisory council" means the air pollution control advisory council provided for in section 82A-606. 8 (6) "Board" means the board of health and environmental sciences, provided for in section 82A-605. 10 (7) "Department" means the department of health and 11 environmental sciences, provided for in Title 82A, chapter 12 6-* 13 Section 2. Section 69-3921.1. R.C.M. 1947. is amended 14 to read as follows: #69-3921-1- Civil penalties -- actions against 15 16 defendants not found in Montana. (1) Any person who violates 17 any provision of this chapter, or any rule enforced 18 thereunder or any order made pursuant thereto; shall be 19 subject to a civil penalty not to exceed one thousand dollars (\$1,000). Each day of violation shall constitute a 21 separate violation. The department may institute and 22 maintain in the name of the state any enforcement 23 proceedings hereunder. Upon request of the department, the attorney general or the county attorney of the county of

violation shall petition the district court to impose.

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assess and recover the civil penalty. The civil penalty is in lieu of the criminal penalty provided for in section 69-3921.

- 4 (2) <u>(a)</u> Action under subsection (1) of this section is 5 not a bar to enforcement of this chapter, or of rules or 6 orders made under it, by injunction or other appropriate 7 civil remedies.
- 8 (b) An action under subsection (1) or to enforce this
 9 chapter or the rules or orders made under it may be brought
 10 in the district court of any county where a violation occurs
 11 or is threatened if the defendant cannot be located in
 12 Montana.
- 13 (3) Monies collected hereunder shall be deposited in 14 the state general fund.**
- Section 3. Section 69-4802. R.C.M. 1947. is amended to read as follows:
- 17 #69-4802. Definitions. Unless the context requires
 18 otherwise in this chapter:

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- (1) "Sewage" means water-carried waste products from residences, public buildings, institutions, or other buildings including discharge from human beings or animals together with ground water infiltration and surface water present.
- 24 (2) "Industrial waste" means any waste substance from 25 the process of business or industry, or from the development

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- of any natural resource together with any sewage that may be present;
- 3 (3) "Other wastes" means garbage, municipal refuse,
 4 decayed wood, sawdust, shavings, bark, lime, sand, ashes,
 5 offal, night soil, oil, grease, tar, heat, chemicals, dead
 6 animals, sediment, wrecked or discarded equipment,
 7 radioactive materials, solid waste, and all other substances
 8 that may pollute state waters;
 - (4) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or other wastes creating a hazard to human health;
 - (5) "Pollution" means contamination, or other alteration of the physical, chemical, or biological properties of any state waters, which exceeds that permitted by Montana water quality standards, including, but not limited to, standards relating to change in temperature, taste, color, turbidity, or odor; or discharge of any liquid, gaseous, solid, radioactive, or other substance into any state water which will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, wild animals, birds, fish, or other wildlife. A discharge which is authorized under the pollution discharge permit rules of the board is not "pollution" under this chapter.
- 25 (6) "Sewerage system" means a device for collecting or

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1 conducting sewage, industrial wastes, or other wastes to an 2 ultimate disposal point;

- 3 (7) "Treatment works" means works installed for 4 treating or holding sewage, industrial wastes, or other 5 wastes;
- 6 (8) "Disposal system" means a system for disposing of
 7 sewage, industrial, or other wastes, and includes sewerage
 8 systems and treatment works:

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- (9) "State waters" means any body of water, irrigation system, or drainage system either surface or underground; however, this subsection does not apply to irrigation waters where the waters are used up within the irrigation system and the waters are not returned to any other state waters;
- (10) "Person" means the state, a political subdivision of the state, institution, firm, corporation, partnership, individual, or other entity and includes persons resident in Canada:
- (11) "Council" means the state water pollution control advisory council provided for in section 82A-607;
- 20 (12) "Board" means the board of health and 21 environmental sciences, provided for in section 82A-605;
- 22 (13) "Department" means the department of health and 23 environmental sciences, provided for in Title 82A, chapter 24 6;
- 25 (14) "Local department of health" means the staff,

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- including health officers, employed by a county, city,
 city-county, or district board of health;
- 3 (15) "Point source" means any discernible, confined and 4 discrete conveyance, including but not limited to any pipe, 5 ditch, channel, tunnel, conduit, well, discrete fissure, 6 container, rolling stock, or vessel or other floating craft, 7 from which pollutants are or may be discharged;
- (16) "Owner or operator" means any person who owns,
 leases, operates, controls or supervises a point source;
- 10 (17) "Standard of performance" means a standard adopted 11 by the board for the control of the discharge of pollutants 12 which reflects the greatest degree of effluent reduction application of the best available 13 achievable through demonstrated control technology, processes, 14 other alternatives, including, where 15 methods. or 16 practicable, a standard permitting no discharge of 17 pollutants;
- 18 (18) "Effluent standard" means any restriction or 19 prohibition on quantities, rates and concentrations of 20 chemical, physical, biological and other constitutents which 21 are discharged into state waters."
- 22 Section 4. Section 69-4820.1, R.C.M. 1947, is amended 23 to read as follows:
- 24 M69-4820.l. Additional enforcement remedies. (1) In 25 addition to all other remedies created by this act. the

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- department is authorized to take appropriate enforcement
 action on its own initiative to:
- (a) prevent, abate, and control the pollution of statewaters;
- 5 (b) prevent, abate, and control any violation of a 6 condition or limitation imposed by a permit issued under 7 section 69-4806, R.C.M. 1947;
- 8 (c) prevent, abate, and control any violations of9 regulations relating to pretreatment standards.

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- any person violating any condition, limitation, standard or other requirement established pursuant to this chapter may be served with a compliance order issued by the department. Such order must specify the condition, limitation, standard or other requirement violated and must set a time for compliance. However, in establishing a time for compliance, the department shall take into account the seriousness of the violation and any good faith efforts that have been made to comply with the condition, limitation, standard or other requirement that has been violated. The compliance order issued under this section shall be personally served by an authorized representative of the department.
- (3) The department is authorized to commence a civil action seeking appropriate relief, including a permanent or temporary injunction, for any violation which would be

subject to a compliance order under subsection (2) of this
section. Any action under this subsection may be commenced
in the district court of any county in which the defendant
is located or resides or is doing business or any county
where a violation occurs or is threatened if the defendant
cannot be located in Montana, and the court shall have
jurisdiction to restrain such violation and to require
compliance.

- 9 (4) Any person found to be in violation of a 10 condition, limitation, standard or other requirement 11 established pursuant to this section shall be subject to the 12 penalty provisions of section 69-4823, ReCeMe 1947.
- 13 (5) For the purpose of this subsection, the term
 14 "person" shall mean, in addition to the definition contained
 15 in section 69-4802, R.C.M. 1947, any responsible corporate
 16 officer."
- 17 Section—5*--Effective--date*---This-act-is-effective-on
 18 its-pssage-and-approval*

45th Legislature

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SB 0393/02

1 .	SENATE BILL NO. 393
2	INTRODUCED BY BROWN. R. SMITH
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR
5	ENFORCEMENT OF THE STATE AIR AND WATER POLLUTION LAWS BY THE
6	DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES AGAINST
7	PERSONS RESIDENT IN CANADA AND PERSONS WHO CANNOT BE LOCATED
ಕ	IN MONTANA; AMENDING SECTIONS 69-3906, 69-3921.1, 69-4802,
4	AND 69-4820.1, R.C.M. 1947; PROVIDENG-AN-IMMEDIATE-EFFECTIVE
10	9ATE.*
11	
12	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13	Section 1. Section 69-3906, R.C.M. 1947, is amended to
14	read as follows:
15	#69-3906. Definitions. Unless the context requires
16	otherwise, in this act: (1) "Air contaminant" means dust,
17	fumes, mist, smoke, other particulate matter, vapor, gas,
18	odorous substances, or any combination thereof.
19	(2) "Air pollution" means the presence in the outdoor
20	atmosphere of one or more air contaminants in a quantity and
21	for a duration which is or tends to be injurious to human
22	health or welfare, animal or plant life, or property, or
23	would unreasonably interfere with the enjoyment of life,
24	property, or the conduct of business.
25	(3) "Emission" means a release into the outdoor

1	atmosphere of air contaminants.
2	(4) "Person" means an individual, partnership, firm
3	association, municipality, public or private corporation
4	subdivision or agency of the state, trust, estate, or an
5	other legal entity <u>and includes persons resident in Canada</u>
6	(5) "Advisory council" means the air pollution control
7	advisory council provided for in section 82A-606.
8	(6) "Board" means the board of health an
9	environmental sciences, provided for in section 82A-605.
10	(7) "Department" means the department of health an
11	environmental sciences, provided for in Title 82A, chapte
12	6***
13	Section 2. Section 69-3921.1, R.C.M. 1947, is amende
14	to read as follows:
15	*69-3921.1. Civil penalties <u> actions agains</u>
16	defendants not found in Montana. (1) Any person who violate
17	any provision of this chapter, or any rule enforce
18	thereunder or any order made pursuant thereto, shall b
19	subject to a civil penalty not to exceed one thousan
20	dollars (\$1,000). Each day of violation shall constitute
21	separate violation. The department may institute an
22	maintain in the name of the state any enforcemen
23	proceedings hereunder. Upon request of the department, th
24	attorney general or the county attorney of the county o

violation shall petition the district court to impose:

assess and recover the civil penalty. The civil penalty is in lieu of the criminal penalty provided for in section 69-3921.

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- 4 (2) (a) Action under subsection (1) of this section is
 5 not a bar to enforcement of this chapter, or of rules or
 6 orders made under it, by injunction or other appropriate
 7 civil remedies.
 - (b) An action under subsection (1) or to enforce this chapter or the rules or orders made under it may be brought in the district court of any county where a violation occurs or is threatened if the defendant cannot be located in Montana.
- 13 (3) Monies collected hereunder shall be deposited in 14 the state general fund.**
- Section 3. Section 69-4802, R.C.M. 1947, is amended to read as follows:
- 17 #69-4802. Definitions. Unless the context requires 18 otherwise in this chapter:
 - (1) "Sewage" means water-carried waste products from residences, public buildings, institutions, or other buildings including discharge from human beings or animals together with ground water infiltration and surface water present.
- 24 (2) "Industrial waste" means any waste substance from 25 the process of business or industry, or from the development

- of any natural resource together with any sewage that may be present;
- 3 (3) "Other wastes" means garbage, municipal refuse,
 4 decayed wood, sawdust, shavings, bark, lime, sand, ashes,
 5 offal, night soil, oil, grease, tar, heat, chemicals, dead
 6 animals, sediment, wrecked or discarded equipment,
 7 radioactive materials, solid waste, and all other substances
 8 that may pollute state waters;
- 9 (4) "Contamination" means impairment of the quality of 10 state waters by sewage, industrial wastes, or other wastes 11 creating a hazard to human health;
 - (5) "Pollution" means contamination, or other alteration of the physical, chemical, or biological properties of any state waters, which exceeds that permitted by Montana water quality standards, including, but not limited to, standards relating to change in temperature, taste, color, turbidity, or odor; or discharge of any liquid, gaseous, solid, radioactive, or other substance into any state water which will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, wild animals, birds, fish, or other wildlife. A discharge which is authorized under the pollution discharge permit rules of the board is not "pollution" under this chapter.
- 25 (6) "Sewerage system" means a device for collecting or

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conducting sewage. industrial wastes. or other wastes to an 1 2 ultimate disposal point;

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- (7) "Treatment works" means works installed for treating or holding sewage, industrial wastes, or other wastes:
- (8) "Disposal system" means a system for disposing of sewage, industrial, or other wastes, and includes sewerage systems and treatment works:
- (9) "State waters" means any body of water, irrigation system, or drainage system either surface or underground; however, this subsection does not apply to irrigation waters where the waters are used up within the irrigation system and the waters are not returned to any other state waters;
- (10) "Person" means the state, a political subdivision of the state, institution, firm, corporation, partnership, Individual, or other entity and includes persons resident in Canada:
- (11) "Council" means the state water pollution control 18 advisory council provided for in section 82A-607; 19
- means the board of health 20 (12) "Board" environmental sciences, provided for in section 82A-605;
- (13) "Department" means the department of health and 22 environmental sciences, provided for in Title 82A, chapter 23 24 6;
- (14) "Local department of health" means the staff, 25

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- 1 including health officers, employed by a county, city, 2 city-county, or district board of health;
- 3 (15) "Point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, 4 ditch, channel, tunnel, conduit, well, discrete fissure, 5 container, rolling stock, or vessel or other floating craft, 7 from which pollutants are or may be discharged;
- 3 (16) "Owner or operator" means any person who owns, 9 leases, operates, controls or supervises a point source:
- 10 (17) "Standard of performance" means a standard adopted 11 by the board for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction 12 through application of the best available 13 achievable 14 demonstrated control technology: processes, operating 15 methods. other alternatives, including, where 16 practicable, a standard permitting no discharge of 17 pollutants:
- 18 (18) "Effluent standard" means any restriction or 19 prohibition on quantities, rates and concentrations of 20 chemical, physical, biological and other constitutents which 21 are discharged into state waters.*
- 22 Section 4. Section 69-4820.1, R.C.M. 1947, is amended 23 to read as follows:
- 24 *69-4820.1. Additional enforcement remedies. (1) In 25 addition to all other remedies created by this act, the

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- department is authorized to take appropriate enforcement
 action on its own initiative to:
- (a) prevent, abate, and control the pollution of statewaters;
- 5 (b) prevent, abate, and control any violation of a 6 condition or limitation imposed by a permit issued under 7 section 69-4806, ReC.Me. 1947;

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- (c) prevent, abate, and control any violations of regulations relating to pretreatment standards.
- any person violating any condition, limitation, standard or other requirement established pursuant to this chapter may be served with a compliance order issued by the department. Such order must specify the condition, limitation, standard or other requirement violated and must set a time for compliance. However, in establishing a time for compliance, the department shall take into account the seriousness of the violation and any good faith efforts that have been made to comply with the condition, limitation, standard or other requirement that has been violated. The compliance order issued under this section shall be personally served by an authorized representative of the department.
- (3) The department is authorized to commence a civil action seeking appropriate relief, including a permanent or temporary injunction, for any violation which would be

- subject to a compliance order under subsection (2) of this
 section. Any action under this subsection may be commenced
 in the district court of any county in which the defendant
 is located or resides or is doing business or any county
 where a violation occurs or is threatened if the defendant
 cannot be located in Montana: and the court shall have
 jurisdiction to restrain such violation and to require
- 9 (4) Any person found to be in violation of a condition, limitation, standard or other requirement 11 established pursuant to this section shall be subject to the penalty provisions of section 69-4823, R.C.M. 1947.

compliance.

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- (5) For the purpose of this subsection, the term "person" shall mean, in addition to the definition contained in section 69-4802, R.C.M. 1947, any responsible corporate officer."
- 17 Section-5w--Effective--datew---This-act-is-effective-on
 18 its-passage-and-approvalw

ı	SENATE	BILL	NO.	393

INTRODUCED BY BROWN, R. SMITH

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A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR ENFORCEMENT OF THE STATE AIR AND WATER POLLUTION LAWS BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES AGAINST 6 PERSONS RESIDENT IN CANADA AND PERSONS WHO CANNOT BE LOCATED 7 IN MONTANA; AMENDING SECTIONS 69-3906, 69-3921-1, 69-4802, 9 AND 69-4820.1, R.C.M. 1947; PROVIDING-AN-IMMEDIATE-EFFECTIVE

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 12

13 Section 1. Section 69-3906, R.C.M. 1947, is amended to 14 read as follows:

#69-3906. Definitions. Unless the context requires otherwise, in this act: (1) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof.

- (2) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in a quantity and for a duration which is or tends to be injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life, property, or the conduct of business.
- (3) "Emission" means a release into the outdoor

atmosphere of air contaminants.

- . (4) "Person" means an individual, partnership, firm, association, municipality, public or private corporation, subdivision or agency of the state, trust, estate, or any other legal entity and includes persons resident in Canada.
- (5) "Advisory council" means the air pollution control advisory council provided for in section 82A-606.
- (6) "Board" means the board of health and environmental sciences, provided for in section 824-605.
- 10 (7) "Department" means the department of health and 11 environmental sciences, provided for in Title 82A, chapter 12 6.×
- 13 Section 2. Section 69-3921.1, R.C.M. 1947, is amended 14 to read as follows:
- #69-3921.1. Civil penalties -- actions against 15 defendants not found in Montaga. (1) Any person who violates 17 any provision of this chapter, or any rule enforced 18 thereunder or any order made pursuant thereto, shall be subject to a civil penalty not to exceed one thousand dollars (\$1,000). Each day of violation shall constitute a separate violation. The department may institute and 21 22 maintain in the name of the state any enforcement proceedings hereunder. Upon request of the department, the 24 attorney general or the county attorney of the county of 25 violation shall petition the district court to impose.

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- (2) (a) Action under subsection (1) of this section is not a bar to enforcement of this chapter, or of rules or orders made under it, by injunction or other appropriate civil remedies.
- 8 (b) An action under subsection (1) or to enforce this
 9 chapter or the rules or orders made under it may be brought
 10 in the district court of any county where a violation occurs
 11 or is threatened if the defendant cannot be located in
 12 Montana.
- 13 (3) Moneys collected hereunder shall be deposited in 14 the state general fund.
- Section 3. Section 69~4802, R.C.N. 1947, is amended to read as follows:
- 17 M69-4802. Definitions. Unless the context requires
 18 otherwise in this chapter:
 - (1) "Sewage" means water-carried waste products from residences, public buildings, institutions, or other buildings including discharge from human beings or animals together with ground water infiltration and surface water present.
- (2) "Industrial waste" means any waste substance from
 the process of business or industry, or from the development

- of any natural resource together with any sewage that may be present;
- (3) "Uther wastes" means garbage, municipal refuse,
 decayed wood, sawdust, shavings, bark, lime, sand, ashes,
 offal, night soil, oil, grease, tar, heat, chemicals, dead
 animals, sediment, wrecked or discarded equipment,
 radioactive materials, solid waste, and all other substances
 that may pollute state waters;
 - (4) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or other wastes creating a hazard to human health;
- means contamination, or other 12 (5) *Pollution* 13 alteration of the physical, chemical, or biological properties of any state waters, which exceeds that permitted 14 by Montana water quality standards, including, but not 15 limited to, standards relating to change in temperature, 16 taste, color, turbidity, or odor; or discharge of any 17 liquid, gaseous, solid, radioactive, or other substance into 18 any state water which will or is likely to create a nuisance 19 or render the waters harmful, detrimental, or injurious to 20 public health, recreation, safety, welfare, livestock, wild 21 animals, birds, fish, or other wildlife. A discharge which 22 23 is authorized under the pollution discharge permit rules of the board is not "pollution" under this chapter.
- 25 (6) "Sewerage system" means a device for collecting or

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conducting	sewage,	industrial	wastes,	or	other	wastes	to	an
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- (7) "Treatment works" means works installed for treating or holding sewage, industrial wastes, or other wastes;
- (8) "Disposal system" means a system for disposing of sewage, industrial, or other wastes, and includes sewerage systems and treatment works;
- (9) "State waters" means any body of water, irrigation system, or drainage system either surface or underground; however, this subsection does not apply to irrigation waters where the waters are used up within the irrigation system and the waters are not returned to any other state waters;
- 14 (10) "Person" means the state, a political subdivision
 15 of the state, institution, firm, corporation, partnership,
 16 individual, or other entity and includes persons resident in
 17 Canada;
 - (11) "Council" means the state water pollution control advisory council provided for in section 82A-607;
- 20 (12) "Board" means the board of health and 21 environmental sciences, provided for in section 82A-605;
- 22 (13) "Department" means the department of health and 23 environmental sciences, provided for in Title 82A, chapter 24 6:
- 25 (14) "Local department of health" means the staff,

1	including health	officers,	employed	Þγ	а	county.	city
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- 3 (15) "Point source" means any discernible, confined and
 4 discrete conveyance, including but not limited to any pipe,
 5 ditch, channel, tunnel, conduit, well, discrete fissure,
 6 container, rolling stock, or vessel or other floating craft,
 7 from which pollutants are or may be discharged;
 - (16) "Owner or operator" means any person who owns, leases, operates, controls or supervises a point source;
 - (17) "Standard of performance" means a standard adopted by the board for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants;
- 18 (18) "Effluent standard" means any restriction or
 19 prohibition on quantities, rates and concentrations of
 20 chemical, physical, biological and other constituents which
 21 are discharged into state waters."
- 22 Section 4. Section 69-4820.1, R.C.M. 1947. is amended 23 to read as follows:
- 24 m69-4820.1. Additional enforcement remedies. (1) In 25 addition to all other remedies created by this act, the

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department is authorized to take appropriate enforcement action on its own initiative to:

3 (a) prevent, abate, and control the pollution of state
4 waters;

- (b) prevent, abate, and control any violation of a condition or limitation imposed by a permit issued under section 69-4806, R.C.N. 1947;
 - (c) prevent, abate, and control any violations of regulations relating to pretreatment standards.
 - any person violating any condition, limitation, standard or other requirement established pursuant to this chapter may be served with a compliance order issued by the department. Such order must specify the condition, limitation, standard or other requirement violated and must set a time for compliance. However, in establishing a time for compliance, the department shall take into account the seriousness of the violation and any good faith efforts that have been made to comply with the condition, limitation, standard or other requirement that has been violated. The compliance order issued under this section shall be personally served by an authorized representative of the department.
 - (3) The department is authorized to commence a civil action seeking appropriate relief, including a permanent or temporary injunction, for any violation which would be

subject to a compliance order under subsection (2) of this
section. Any action under this subsection may be commenced
in the district court of any county in which the defendant
is located or resides or is doing business or any county
more a violation occurs or is threatened if the defendant
cannot be located in Montana, and the court shall have
jurisdiction to restrain such violation and to require
compliance.

- (4) Any person found to be in violation of a condition, limitation, standard or other requirement established pursuant to this section shall be subject to the paralty provisions of section 69-4823, R.C.N. 1947.
- (5) For the purpose of this subsection, the term "person" shall mean, in addition to the definition contained in section 69-4802, R.C.M. 1947, any responsible corporate Officer."
- 17 Section-5w--Effective--datew---This-act-is-effective-on
 18 its-passage-and-approval*